

FIFTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, March 19, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach.

The Sergeant at Arms Color Guard consisting of Senate Employees Sandy Wibbels and Kara Hamilton, presented the Colors. Retired Pastor Sandra Kries of St. Christopher's Community Church offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

March 18, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL NO. 2672,
HOUSE CONCURRENT RESOLUTION NO. 4409,
ENGROSSED SUBSTITUTE SENATE BILL 6789,
and the same are here with transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

MOTION

Senator Prentice moved adoption of the following resolution:

SENATE RESOLUTION
8722

By Senators Prentice, Fraser, Kohl-Welles, and Franklin

WHEREAS, The Washington State Legislature recognizes and honors the life and lifetime contributions of Ernest Ignacio Jose "Ernie" Aguilar, born on March 19, 1919, in Mexico City and died March 15, 2010; and

WHEREAS, In the name of public service Ernest Aguilar gave of his time, talent, resources, and skills during his entire lifetime towards the advancement of the Hispanic community and all citizens of Washington State; and

WHEREAS, Ernie Aguilar is survived by his wife of forty-five years, Clementina (Tina) Aguilar; his children, Kenny, Alan, Paul, Gloria McGriff, Michael (deceased), and Ernest (Nachito); his

grandchildren, Maria Aguilar, Shana Kenschuh, Darci and Alan Aguilar; and his great-grandchildren, Anthony and Alexander Kenschuh; and

WHEREAS, Ernie and Tina Aguilar's son Michael was the first Hispanic born in Washington State to graduate from West Point, and later unselfishly gave his life in the line of duty in a military training maneuver; and

WHEREAS, Ernie and Tina's son Kenny has achieved international recognition as the former Director of Personnel for NASA; and

WHEREAS, Ernie Aguilar proudly served this country and was a decorated veteran of World War II, the Korean War, and the Vietnam War; and

WHEREAS, Ernie Aguilar, as a tireless public servant and true visionary of the community, was instrumental in the creation of the Washington State Commission on Hispanic Affairs and was a member of its first governing board; and

WHEREAS, Ernie Aguilar was a former Thurston County Deputy Sheriff, the first Mexican-American to run for County Office in Washington State, and a former member of the Washington State Jail Commission; and

WHEREAS, Ernie Aguilar was a founding member and is now Chairman Emeritus of the Washington State Hispanic Chamber of Commerce, which promotes the self-determination and economic development of the State's Hispanic community; and

WHEREAS, Ernie Aguilar was one of the original founders and the first Chair of the Board of the Yakima Valley Farm Workers Clinic in Toppenish, Washington, which has improved access to medical care for all people in the community; and

WHEREAS, Ernie Aguilar was the initiator and founder of the Washington State Catholic Hispanic Ministry within Catholic Charities; and

WHEREAS, Ernie Aguilar has demonstrated a selfless commitment to higher education with the creation of the Ernie Aguilar Scholarship Fund that has been established at the University of Washington's Foster School of Business for Latino students who are pursuing their Masters in Business Administration; and

WHEREAS, Ernie Aguilar's international leadership achievements and dedication to the advancement of the Mexican and the Mexican-American communities were acknowledged by the President of Mexico when he was awarded the Ohtli Medal, Mexico's highest civilian honor;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate urge all citizens of the State of Washington to join us in congratulating and recognizing Ernie Aguilar for his unique and courageous vision, tireless public service, and legacy of accomplishments on behalf of Hispanics and all citizens of the State of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the family of Ernie Aguilar, the Consul General of Mexico, the Washington State Commission on Hispanic Affairs, the Washington Latino Advocacy and Leadership Institute, and the Foster School of Business at the University of Washington.

Senators Prentice, Franklin and King spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8722.

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

MOTION

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

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED HOUSE BILL 2672,
HOUSE CONCURRENT RESOLUTION 4409.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Murray moved that Gubernatorial Appointment No. 9199, Kristin Hayden, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senator Murray spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Benton, Holmquist, McCaslin, Morton, Roach and Stevens were excused.

MOTION

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

APPOINTMENT OF KRISTIN HAYDEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9199, Kristin Hayden as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9199, Kristin Hayden as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

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

Absent: Senator Delvin

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

Gubernatorial Appointment No. 9199, Kristin Hayden, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Evergreen State College.

MOTION

On motion of Senator Carrell, Senator Delvin was excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Gordon moved that Gubernatorial Appointment No. 9254, Lynette D. Jones, as a member of the Board of Trustees, Lake Washington Technical College District No. 26, be confirmed.

Senator Gordon spoke in favor of the motion.

APPOINTMENT OF LYNETTE D. JONES

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9254, Lynette D. Jones as a member of the Board of Trustees, Lake Washington Technical College District No. 26.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9254, Lynette D. Jones as a member of the Board of Trustees, Lake Washington Technical College District No. 26 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

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

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

Gubernatorial Appointment No. 9254, Lynette D. Jones, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Lake Washington Technical College District No. 26.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Gordon moved that Gubernatorial Appointment No. 9196, Mariellen Gunn, as a member of the Board of Trustees, Bellevue Community College District No. 8, be confirmed.

Senator Gordon spoke in favor of the motion.

APPOINTMENT OF MARIELLEN GUNN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9196, Mariellen Gunn as a member of the Board of Trustees, Bellevue Community College District No. 8.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9196, Mariellen Gunn as a member of the Board of Trustees, Bellevue Community College District No. 8 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

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

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

Gubernatorial Appointment No. 9196, Mariellen Gunn, having received the constitutional majority was declared

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

confirmed as a member of the Board of Trustees, Bellevue Community College District No. 8.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Schoesler moved that Gubernatorial Appointment No. 9249, Kasey Webster, as a member of the Board of Regents, Washington State University, be confirmed.

Senator Schoesler spoke in favor of the motion.

APPOINTMENT OF KASEY WEBSTER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9249, Kasey Webster as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9249, Kasey Webster as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

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

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

Gubernatorial Appointment No. 9249, Kasey Webster, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

MOTION

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

THIRD READING

ENGROSSED SENATE BILL NO. 6221, by Senator Fairley.

Concerning clarification and expansion of eligibility to use the state's local government investment pool.

The bill was read on Third Reading.

MOTION

On motion of Senator Fairley, the rules were suspended and Engrossed Senate Bill No. 6221 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SENATE BILL NO. 6221, by Senator Fairley

Concerning clarification and expansion of eligibility to use the state's local government investment pool.

The measure was read the second time.

MOTION

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

On page 4, line 6, after "designee," strike "authorized officer of a school district."

Senator Fairley spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 4, line 6 to Engrossed Senate Bill No. 6221.

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

MOTION

On motion of Senator Fairley, the rules were suspended, Second Engrossed Senate Bill No. 6221 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

Senator Tom spoke on final passage.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 6221.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 6221 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 1; Absent, 0; Excused, 6.

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

Voting nay: Senator Tom

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

SECOND ENGROSSED SENATE BILL NO. 6221, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 10:46 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:24 a.m. by President Owen.

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that gubernatorial appointment No. 9210, Bruce L. Lachney, as a member of the Board of Trustees, Clover Park Technical College District No. 29, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF BRUCE L. LACHNEY

The President declared the question before the Senate to be the confirmation of gubernatorial appointment No. 9210, Bruce L. Lachney as a member of the Board of Trustees, Clover Park Technical College District No. 29.

The Secretary called the roll on the confirmation of gubernatorial appointment No. 9210, Bruce L. Lachney as a member of the Board of Trustees, Clover Park Technical College District No. 29 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Benton, Holmquist, McCaslin, Morton and Roach

Gubernatorial appointment No. 9210, Bruce L. Lachney, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clover Park Technical College District No. 29.

MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

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

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that gubernatorial appointment No. 9195, Michael Grunwald, as a member of the Board of Trustees, Bates Technical College District No. 28, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF MICHAEL GRUNWALD

The President declared the question before the Senate to be the confirmation of gubernatorial appointment No. 9195, Michael Grunwald as a member of the Board of Trustees, Bates Technical College District No. 28.

The Secretary called the roll on the confirmation of gubernatorial appointment No. 9195, Michael Grunwald as a member of the Board of Trustees, Bates Technical College District No. 28 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yeas: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon,

Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton and Roach

Gubernatorial appointment No. 9195, Michael Grunwald, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Bates Technical College District No. 28.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Haugen moved that gubernatorial appointment No. 9222, Daniel O'Neal, as a member of the Transportation Commission, be confirmed.

Senator Haugen spoke in favor of the motion.

APPOINTMENT OF DANIEL O'NEAL

The President declared the question before the Senate to be the confirmation of gubernatorial appointment No. 9222, Daniel O'Neal as a member of the Transportation Commission.

The Secretary called the roll on the confirmation of gubernatorial appointment No. 9222, Daniel O'Neal as a member of the Transportation Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Benton, McCaslin, Morton and Roach

Gubernatorial appointment No. 9222, Daniel O'Neal, having received the constitutional majority was declared confirmed as a member of the Transportation Commission.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that gubernatorial appointment No. 9251, Chad R. Wright, as a member of the Board of Trustees, Tacoma Community College District No. 22, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF CHAD R. WRIGHT

The President declared the question before the Senate to be the confirmation of gubernatorial appointment No. 9251, Chad R. Wright as a member of the Board of Trustees, Tacoma Community College District No. 22.

The Secretary called the roll on the confirmation of gubernatorial appointment No. 9251, Chad R. Wright as a member of the Board of Trustees, Tacoma Community College

FIFTH DAY, MARCH 19, 2010

District No. 22 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Benton, McCaslin, Morton and Roach

Gubernatorial Appointment No. 9251, Chad R. Wright, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Tacoma Community College District No. 22.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2956, by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Williams and Maxwell)

Concerning hospital safety net assessment. Revised for 2nd Substitute: Concerning the hospital safety net.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. PURPOSE, FINDINGS, AND INTENT. (1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby obtain additional funds to restore recent reductions and to support additional payments to hospitals for medicaid services.

(2) The legislature finds that:

(a) Washington hospitals, working with the department of social and health services, have proposed a hospital safety net assessment to generate additional state and federal funding for the medicaid program, which will be used to partially restore recent inpatient and outpatient reductions in hospital reimbursement rates and provide for an increase in hospital payments; and

(b) The hospital safety net assessment and hospital safety net assessment fund created in this chapter allows the state to generate additional federal financial participation for the medicaid program and provides for increased reimbursement to hospitals.

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

(b) That funds generated by the assessment shall be used solely to augment all other funding sources and not as a substitute for any other funds;

(c) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the reimbursement rates and other payments authorized by this chapter; and

(d) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain hospital inpatient and outpatient reimbursement rates and small rural

disproportionate share payments at least at the levels in effect on June 30, 2009.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certified public expenditure hospital" means a hospital participating in the department's certified public expenditure payment program as described in WAC 388-550-4650 or successor rule.

(2) "Critical access hospital" means a hospital as described in RCW 74.09.5225.

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

(4) "Fund" means the hospital safety net assessment fund established under section 3 of this act.

(5) "Hospital" means a facility licensed under chapter 70.41 RCW.

(6) "Long-term acute care hospital" means a hospital which has an average inpatient length of stay of greater than twenty-five days as determined by the department of health.

(7) "Managed care organization" means an organization having a certificate of authority or certificate of registration from the office of the insurance commissioner that contracts with the department under a comprehensive risk contract to provide prepaid health care services to eligible clients under the department's medicaid managed care programs, including the healthy options program.

(8) "Medicaid" means the medical assistance program as established in Title XIX of the social security act and as administered in the state of Washington by the department of social and health services.

(9) "Medicare cost report" means the medicare cost report, form 2552-96, or successor document.

(10) "Nonmedicare hospital inpatient day" means total hospital inpatient days less medicare inpatient days, including medicare days reported for medicare managed care plans, as reported on the medicare cost report, form 2552-96, or successor forms, excluding all skilled and nonskilled nursing facility days, skilled and nonskilled swing bed days, nursery days, observation bed days, hospice days, home health agency days, and other days not typically associated with an acute care inpatient hospital stay.

(11) "Prospective payment system hospital" means a hospital reimbursed for inpatient and outpatient services provided to medicaid beneficiaries under the inpatient prospective payment system and the outpatient prospective payment system as defined in WAC 388-550-1050. For purposes of this chapter, prospective payment system hospital does not include a hospital participating in the certified public expenditure program or a bordering city hospital located outside of the state of Washington and in one of the bordering cities listed in WAC 388-501-0175 or successor regulation.

(12) "Psychiatric hospital" means a hospital facility licensed as a psychiatric hospital under chapter 71.12 RCW.

(13) "Regional support network" has the same meaning as provided in RCW 71.24.025.

(14) "Rehabilitation hospital" means a medicare-certified freestanding inpatient rehabilitation facility.

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

(16) "Small rural disproportionate share hospital payment" means a payment made in accordance with WAC 388-550-5200 or subsequently filed regulation.

NEW SECTION. Sec. 3. HOSPITAL SAFETY NET ASSESSMENT FUND. (1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to

receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the department on audit or otherwise shall be returned to the fund.

(a) Any unexpended balance in the fund at the end of a fiscal biennium shall carry over into the following biennium and shall be applied to reduce the amount of the assessment under section 6(1)(c) of this act.

(b) Any amounts remaining in the fund on July 1, 2013, shall be used to make increased payments in accordance with sections 10 and 13 of this act for any outstanding claims with dates of service prior to July 1, 2013. Any amounts remaining in the fund after such increased payments are made shall be refunded to hospitals, pro rata according to the amount paid by the hospital, subject to the limitations of federal law.

(2) All assessments, interest, and penalties collected by the department under sections 4 and 6 of this act shall be deposited into the fund.

(3) Disbursements from the fund may be made only as follows:

(a) Subject to appropriations and the continued availability of other funds in an amount sufficient to maintain the level of medicaid hospital rates in effect on July 1, 2009;

(b) Upon certification by the secretary that the conditions set forth in section 17(1) of this act have been met with respect to the assessments imposed under section 4 (1) and (2) of this act, the payments provided under section 9 of this act, payments provided under section 13(2) of this act, and any initial payments under sections 11 and 12 of this act, funds shall be disbursed in the amount necessary to make the payments specified in those sections;

(c) Upon certification by the secretary that the conditions set forth in section 17(1) of this act have been met with respect to the assessments imposed under section 4(3) of this act and the payments provided under sections 10 and 14 of this act, payments made subsequent to the initial payments under sections 11 and 12 of this act, and payments under section 13(3) of this act, funds shall be disbursed periodically as necessary to make the payments as specified in those sections;

(d) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(e) The sum of thirty-two million dollars per biennium may be expended in lieu of state general fund payments to hospitals. An additional sum of sixteen million dollars for the 2009-2011 fiscal biennium may be expended in lieu of state general fund payments to hospitals if additional federal financial participation under section 5001 of P.L. No. 111-5 is extended beyond December 31, 2010;

(f) The sum of one million dollars per biennium may be disbursed for payment of administrative expenses incurred by the department in performing the activities authorized by this chapter;

(g) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations and all appeals have been exhausted. In such a case, the department may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop a payment plan and/or deduct moneys from future medicaid payments.

NEW SECTION. Sec. 4. ASSESSMENTS. (1) An assessment is imposed as set forth in this subsection effective after the date when the applicable conditions under section 17(1) of this act have been satisfied through June 30, 2013, for the purpose of funding restoration of reimbursement rates under sections 9(1) and 13(2)(a) of this act and funding payments made subsequent to the

initial payments under sections 11 and 12 of this act. Payments under this subsection are due and payable on the first day of each calendar quarter after the department sends notice of assessment to affected hospitals. However, the initial assessment is not due and payable less than thirty calendar days after notice of the amount due has been provided to affected hospitals.

(a) For the period beginning on the date the applicable conditions under section 17(1) of this act are met through December 31, 2010:

(i) Each prospective payment system hospital shall pay an assessment of thirty-two dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(b) For the period beginning on January 1, 2011:

(i) Each prospective payment system hospital shall pay an assessment of forty dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(c) For the period beginning July 1, 2011, through June 30, 2013:

(i) Each prospective payment system hospital shall pay an assessment of forty-four dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(d)(i) For purposes of (a) and (b) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(ii) For purposes of (c) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under section 5 of this act, taken from the most recent publicly available hospital 2552-96 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the department. If cost report data are unavailable from the foregoing source for any hospital subject to the assessment, the department shall collect such information directly from the hospital.

(2) An assessment is imposed in the amounts set forth in this section for the purpose of funding the restoration of the rates under sections 9(2) and 13(2)(b) of this act and funding the initial payments under sections 11 and 12 of this act, which shall be due and payable within thirty calendar days after the department has transmitted a notice of assessment to hospitals. Such notice shall be transmitted immediately upon determination by the secretary that

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

the applicable conditions established by section 17(1) of this act have been met.

(a) Prospective payment system hospitals.

(i) Each prospective payment system hospital shall pay an assessment of thirty dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(ii) Each prospective payment system hospital shall pay an assessment of one dollar for each annual nonmedicare hospital inpatient day over and above sixty thousand per year, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(b) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(c) For purposes of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(3) An assessment is imposed as set forth in this subsection for the period February 1, 2010, through June 30, 2013, for the purpose of funding increased hospital payments under sections 10 and 13(3) of this act, which shall be due and payable on the first day of each calendar quarter after the department has sent notice of the assessment to each affected hospital, provided that the initial assessment shall be transmitted only after the secretary has determined that the applicable conditions established by section 17(1) of this act have been satisfied and shall be payable no less than thirty calendar days after the department sends notice of the amount due to affected hospitals. The initial assessment shall include the full amount due from February 1, 2010, through the date of the notice.

(a) For the period February 1, 2010, through December 31, 2010:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of five dollars for each annual nonmedicare hospital inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of twenty-four dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(b) For the period beginning on January 1, 2011:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred twenty-seven dollars for each annual nonmedicare inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of seven dollars for each annual nonmedicare inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five. The department may adjust the assessment or the number of nonmedicare hospital inpatient days used to calculate the assessment amount if necessary to maintain compliance with federal statutes and regulations related to medicaid program health care-related taxes.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(c) For the period beginning July 1, 2011, through June 30, 2013:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred thirty-three dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of seven dollars for each annual nonmedicare inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five. The department may adjust the assessment or the number of nonmedicare hospital inpatient days if necessary to maintain compliance with federal statutes and regulations related to medicaid program health care-related taxes.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty dollars for each annual nonmedicare inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(d)(i) For purposes of (a) and (b) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(ii) For purposes of (c) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under section 5 of this act, taken from the most recent publicly available hospital 2552-96 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the department. If cost report data are unavailable from the foregoing source for any hospital subject to the assessment, the department shall collect such information directly from the hospital.

(4) Notwithstanding the provisions of section 8 of this act, nothing in this act is intended to prohibit a hospital from including assessment amounts paid in accordance with this section on their medicare and medicaid cost reports.

NEW SECTION. Sec. 5. EXEMPTIONS. The following hospitals are exempt from any assessment under this chapter provided that if and to the extent any exemption is held invalid by a court of competent jurisdiction or by the centers for medicare and medicaid services, hospitals previously exempted shall be liable for assessments due after the date of final invalidation:

- (1) Hospitals owned or operated by an agency of federal or state government, including but not limited to western state hospital and eastern state hospital;
- (2) Washington public hospitals that participate in the certified public expenditure program;
- (3) Hospitals that do not charge directly or indirectly for hospital services; and
- (4) Long-term acute care hospitals.

NEW SECTION. Sec. 6. ADMINISTRATION AND COLLECTION. (1) The department, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual hospitals, notifying individual hospitals of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Transmittal of quarterly notices of assessment by the department to each hospital informing the hospital of its nonmedicare hospital inpatient days and the assessment amount due and payable. Such quarterly notices shall be sent to each hospital at least thirty calendar days prior to the due date for the quarterly assessment payment.

(b) Interest on delinquent assessments at the rate specified in RCW 82.32.050.

(c) Adjustment of the assessment amounts as follows:

(i) For each fiscal year beginning July 1, 2010, the assessment amounts under section 4 (1) and (3) of this act may be adjusted as follows:

(A) If sufficient other funds for hospitals, including any increase in federal financial participation for hospital payments in addition to what is provided under section 5001 of P.L. No. 111-5 or any extensions thereof, are available to support the reimbursement rates and other payments under section 9, 10, 11, 12, or 13 of this act without utilizing the full assessment authorized under section 4 (1) or (3) of this act, the department shall reduce the amount of the assessment for prospective payment system, psychiatric, and rehabilitation hospitals proportionately to the minimum level necessary to support those reimbursement rates and other payments.

(B) Provided that none of the conditions set forth in section 17(2) of this act have occurred, if the department's forecasts indicate that the assessment amounts under section 4 (1) and (3) of this act, together with all other available funds, are not sufficient to support the reimbursement rates and other payments under section 9, 10, 11, 12, or 13 of this act, the department shall increase the assessment rates for prospective payment system, psychiatric, and rehabilitation hospitals proportionately to the amount necessary to support those reimbursement rates and other payments, plus a contingency factor up to ten percent of the total assessment amount.

(C) Any positive balance remaining in the fund at the end of the fiscal year shall be applied to reduce the assessment amount for the subsequent fiscal year.

(ii) Any adjustment to the assessment amounts pursuant to this subsection, and the data supporting such adjustment, including but not limited to relevant data listed in subsection (2) of this section, must be submitted to the Washington state hospital association for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington state hospital association shall not limit the ability of the Washington state hospital association or its members to challenge an adjustment or other

action by the department that is not made in accordance with this chapter.

(2) By November 30th of each year, the department shall provide the following data to the Washington state hospital association:

- (a) The fund balance;
- (b) The amount of assessment paid by each hospital;
- (c) The annual medicaid fee-for-service payments for inpatient hospital services and outpatient hospital services; and
- (d) The medicaid healthy options inpatient and outpatient payments as reported by all hospitals to the department on disproportionate share hospital applications. The department shall amend the disproportionate share hospital application and reporting instructions as needed to ensure that the foregoing data is reported by all hospitals as needed in order to comply with this subsection (2)(d).

(3) The department shall determine the number of nonmedicare hospital inpatient days for each hospital for each assessment period.

(4) To the extent necessary, the department shall amend the contracts between the managed care organizations and the department and between regional support networks and the department to incorporate the provisions of section 13 of this act. The department shall pursue amendments to the contracts as soon as possible after the effective date of this act. The amendments to the contracts shall, among other provisions, provide for increased payment rates to managed care organizations in accordance with section 13 of this act.

NEW SECTION. Sec. 7. LOCAL ASSESSMENTS OR TAXES NOT AUTHORIZED. Nothing in this chapter shall be construed to authorize any unit of local government to impose a tax or assessment on hospitals, including but not limited to a tax or assessment measured by a hospital's income, earnings, bed days, or other similar measures.

NEW SECTION. Sec. 8. ASSESSMENT PART OF OPERATING OVERHEAD. The incidence and burden of assessments imposed under this chapter shall be on hospitals and the expense associated with the assessments shall constitute a part of the operating overhead of hospitals. Hospitals shall not increase charges or billings to patients or third-party payers as a result of the assessments under this chapter. The department may require hospitals to submit certified statements by their chief financial officers or equivalent officials attesting that they have not increased charges or billings as a result of the assessments.

NEW SECTION. Sec. 9. RESTORATION OF JUNE 30, 2009, REIMBURSEMENT RATES. Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, the department shall:

(1) Restore medicaid inpatient and outpatient reimbursement rates to levels as if the four percent medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009; and

(2) Recalculate the amount payable to each hospital that submitted an otherwise allowable claim for inpatient and outpatient medicaid-covered services rendered from and after July 1, 2009, up to and including the date when the applicable conditions under section 17(1) of this act have been satisfied, as if the four percent medicaid inpatient and outpatient rate reductions did not occur effective July 1, 2009, and, within sixty calendar days after the date upon which the applicable conditions set forth in section 17(1) of this act have been satisfied, remit the difference to each hospital.

NEW SECTION. Sec. 10. INCREASED HOSPITAL PAYMENTS. (1) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act and for services rendered on or after February 1, 2010, the department shall increase the medicaid inpatient and outpatient fee-for-service hospital reimbursement rates in effect on June 30, 2009, by the percentages specified below:

- (a) Prospective payment system hospitals:

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

- (i) Inpatient psychiatric services: Twelve percent;
- (ii) Inpatient services: Twelve percent;
- (iii) Outpatient services: Thirty-two percent.

(b) Harborview medical center and University of Washington medical center:

- (i) Inpatient psychiatric services: Three percent;
- (ii) Inpatient services: Three percent;
- (iii) Outpatient services: Twenty-one percent.

(c) Rehabilitation hospitals:

- (i) Inpatient services: Twelve percent;
- (ii) Outpatient services: Thirty-two percent;
- (d) Psychiatric hospitals:

- (i) Inpatient psychiatric services: Twelve percent;
- (ii) Inpatient services: Twelve percent.

(2) For claims processed for services rendered on or after February 1, 2010, but prior to satisfaction of the applicable conditions specified in section 17(1) of this act, the department shall, within sixty calendar days after satisfaction of those conditions, calculate the amount payable to hospitals in accordance with this section and remit the difference to each hospital that has submitted an otherwise allowable claim for payment for such services.

NEW SECTION. Sec. 11. CRITICAL ACCESS HOSPITAL PAYMENTS. Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, the department shall pay critical access hospitals that do not qualify for or receive a small rural disproportionate share payment in the subject state fiscal year an access payment of fifty dollars for each medicaid inpatient day, exclusive of days on which a swing bed is used for subacute care, from and after July 1, 2009. Initial payments to hospitals, covering the period from July 1, 2009, to the date when the applicable conditions under section 17(1) of this act are satisfied, shall be made within sixty calendar days after such conditions are satisfied. Subsequent payments shall be made to critical access hospitals on an annual basis at the time that disproportionate share eligibility and payment for the state fiscal year are established. These payments shall be in addition to any other amount payable with respect to services provided by critical access hospitals and shall not reduce any other payments to critical access hospitals.

NEW SECTION. Sec. 12. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS. Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, small rural disproportionate share payments shall be increased to one hundred twenty percent of the level in effect as of June 30, 2009, for the period from and after July 1, 2009, until July 1, 2013. Initial payments, covering the period from July 1, 2009, to the date when the applicable conditions under section 17(1) of this act are satisfied, shall be made within sixty calendar days after those conditions are satisfied. Subsequent payments shall be made directly to hospitals by the department on a periodic basis.

NEW SECTION. Sec. 13. INCREASED MANAGED CARE PAYMENTS AND CORRESPONDING PAYMENTS TO HOSPITALS. Subject to the applicable conditions set forth in section 17(1) of this act, the department shall:

(1) Amend medicaid-managed care and regional support network contracts as necessary in order to ensure compliance with this chapter;

(2) With respect to the inpatient and outpatient rates established by section 9 of this act:

(a) Upon satisfaction of the applicable conditions under section 17(1) of this act, increase payments to managed care organizations and regional support networks as necessary to ensure that hospitals are reimbursed in accordance with section 9(1) of this act for services rendered from and after the date when applicable conditions under section 17(1) of this act have been satisfied, and pay an additional amount equal to the estimated amount of

additional state taxes on managed care organizations or regional support networks due as a result of the payments under this section, and require managed care organizations and regional support networks to make payments to each hospital in accordance with section 9 of this act. The increased payments made to hospitals pursuant to this subsection shall be in addition to any other amounts payable to hospitals by managed care organizations or regional support networks and shall not affect any other payments to hospitals;

(b) Within sixty calendar days after satisfaction of the applicable conditions under section 17(1) of this act, calculate the additional amount due to each hospital to pay claims submitted for inpatient and outpatient medicaid-covered services rendered from and after July 1, 2009, through the date when the applicable conditions under section 17(1) of this act have been satisfied, based on the rates required by section 9(2) of this act, make payments to managed care organizations and regional support networks in amounts sufficient to pay the additional amounts due to each hospital plus an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this subsection, and require managed care organizations and regional support networks to make payments to each hospital in accordance with the department's calculations within forty-five calendar days after the department disburses funds for those purposes.

(3) With respect to the inpatient and outpatient hospital rates established by section 10 of this act:

(a) Upon satisfaction of the applicable conditions under section 17(1) of this act, increase payments to managed care organizations and regional support networks as necessary to ensure that hospitals are reimbursed in accordance with section 10 of this act, and pay an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this section;

(b) Require managed care organizations and regional support networks to reimburse hospitals for hospital inpatient and outpatient services rendered after the date that the applicable conditions under section 17(1) of this act are satisfied at rates no lower than the combined rates established by sections 9 and 10 of this act;

(c) Within sixty calendar days after satisfaction of the applicable conditions under section 17(1) of this act, calculate the additional amount due to each hospital to pay claims submitted for inpatient and outpatient medicaid-covered services rendered from and after February 1, 2010, through the date when the applicable conditions under section 17(1) of this act are satisfied based on the rates required by section 10 of this act, make payments to managed care organizations and regional support networks in amounts sufficient to pay the additional amounts due to each hospital plus an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks, and require managed care organizations and regional support networks to make payments to each hospital in accordance with the department's calculations within forty-five calendar days after the department disburses funds for those purposes;

(d) Require managed care organizations that contract with health care organizations that provide, directly or by contract, health care services on a prepaid or capitated basis to make payments to health care organizations for any of the hospital payments that the managed care organizations would have been required to pay to hospitals under this section if the managed care organizations did not contract with those health care organizations, and require the managed care organizations to require those health care organizations to make equivalent payments to the hospitals that would have received payments under this section if the managed

care organizations did not contract with the health care organizations;

(4) The department shall ensure that the increases to the medicaid fee schedules as described in section 10 of this act are included in the development of healthy options premiums.

(5) The department may require managed care organizations and regional support networks to demonstrate compliance with this section.

NEW SECTION. Sec. 14. QUALITY INCENTIVE PAYMENTS. (1) The department, in collaboration with the health care authority, the department of health, the department of labor and industries, the Washington state hospital association, the Puget Sound health alliance, and the forum, a collaboration of health carriers, physicians, and hospitals in Washington state, shall design a system of hospital quality incentive payments. The design of the system shall be submitted to the relevant policy and fiscal committees of the legislature by December 15, 2010. The system shall be based upon the following principles:

(a) Evidence-based treatment and processes shall be used to improve health care outcomes for hospital patients;

(b) Effective purchasing strategies to improve the quality of health care services should involve the use of common quality improvement measures by public and private health care purchasers, while recognizing that some measures may not be appropriate for application to specialty pediatric, psychiatric, or rehabilitation hospitals;

(c) Quality measures chosen for the system should be consistent with the standards that have been developed by national quality improvement organizations, such as the national quality forum, the federal centers for medicare and medicaid services, or the federal agency for healthcare research and quality. New reporting burdens to hospitals should be minimized by giving priority to measures hospitals are currently required to report to governmental agencies, such as the hospital compare measures collected by the federal centers for medicare and medicaid services;

(d) Benchmarks for each quality improvement measure should be set at levels that are feasible for hospitals to achieve, yet represent real improvements in quality and performance for a majority of hospitals in Washington state; and

(e) Hospital performance and incentive payments should be designed in a manner such that all noncritical access hospitals in Washington are able to receive the incentive payments if performance is at or above the benchmark score set in the system established under this section.

(2) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, and for state fiscal year 2013 and each fiscal year thereafter, assessments may be increased to support an additional one percent increase in inpatient hospital rates for noncritical access hospitals that meet the quality incentive benchmarks established under this section.

NEW SECTION. Sec. 15. A new section is added to chapter 70.47 RCW to read as follows:

The increases in inpatient and outpatient reimbursement rates included in chapter 74.-- RCW (the new chapter created in section 23 of this act) shall not be reflected in hospital payment rates for services provided to basic health enrollees under this chapter.

NEW SECTION. Sec. 16. MULTIHOSPITAL LOCATIONS, NEW HOSPITALS, AND CHANGES IN OWNERSHIP. (1) If an entity owns or operates more than one hospital subject to assessment under this chapter, the entity shall pay the assessment for each hospital separately. However, if the entity operates multiple hospitals under a single medicaid provider number, it may pay the assessment for the hospitals in the aggregate.

(2) Notwithstanding any other provision of this chapter, if a hospital subject to the assessment imposed under this chapter ceases to conduct hospital operations throughout a state fiscal year, the

assessment for the quarter in which the cessation occurs shall be adjusted by multiplying the assessment computed under section 4 (1) and (3) of this act by a fraction, the numerator of which is the number of days during the year which the hospital conducts, operates, or maintains the hospital and the denominator of which is three hundred sixty-five. Immediately prior to ceasing to conduct, operate, or maintain a hospital, the hospital shall pay the adjusted assessment for the fiscal year to the extent not previously paid.

(3) Notwithstanding any other provision of this chapter, in the case of a hospital that commences conducting, operating, or maintaining a hospital that is not exempt from payment of the assessment under section 5 of this act and that did not conduct, operate, or maintain such hospital throughout the cost reporting year used to determine the assessment amount, the assessment for that hospital shall be computed on the basis of the actual number of nonmedicare inpatient days reported to the department by the hospital on a quarterly basis. The hospital shall be eligible to receive increased payments under this chapter beginning on the date it commences hospital operations.

(4) Notwithstanding any other provision of this chapter, if a hospital previously subject to assessment is sold or transferred to another entity and remains subject to assessment, the assessment for that hospital shall be computed based upon the cost report data previously submitted by that hospital. The assessment shall be allocated between the transferor and transferee based on the number of days within the assessment period that each owned, operated, or maintained the hospital.

NEW SECTION. Sec. 17. CONDITIONS. (1) The assessment, collection, and disbursement of funds under this chapter shall be conditional upon:

(a) Withdrawal of those aspects of any pending state plan amendments previously submitted to the centers for medicare and medicaid services that are inconsistent with this chapter, specifically any pending state plan amendment related to the four percent rate reductions for inpatient and outpatient hospital rates and elimination of the small rural disproportionate share hospital payment program as implemented July 1, 2009;

(b) Approval by the centers for medicare and medicaid services of any state plan amendments or waiver requests that are necessary in order to implement the applicable sections of this chapter;

(c) To the extent necessary, amendment of contracts between the department and managed care organizations in order to implement this chapter; and

(d) Certification by the office of financial management that appropriations have been adopted that fully support the rates established in this chapter for the upcoming fiscal year.

(2) This chapter does not take effect or ceases to be imposed, and any moneys remaining in the fund shall be refunded to hospitals in proportion to the amounts paid by such hospitals, if and to the extent that:

(a) An appellate court or the centers for medicare and medicaid services makes a final determination that any element of this chapter, other than section 11 of this act, cannot be validly implemented;

(b) Medicaid inpatient or outpatient reimbursement rates for hospitals are reduced below the combined rates established by sections 9 and 10 of this act;

(c) Except for payments to the University of Washington medical center and harborview medical center, payments to hospitals required under sections 9, 10, 12, and 13 of this act are not eligible for federal matching funds;

(d) Other funding available for the medicaid program is not sufficient to maintain medicaid inpatient and outpatient reimbursement rates at the levels set in sections 9, 10, and 12 of this act; or

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

(e) The fund is used as a substitute for or to supplant other funds, except as authorized by section 3(3)(e) of this act.

NEW SECTION. Sec. 18. SEVERABILITY. (1) The provisions of this chapter are not severable: If the conditions set forth in section 17(1) of this act are not satisfied or if any of the circumstances set forth in section 17(2) of this act should occur, this entire chapter shall have no effect from that point forward, except that if the payment under section 11 of this act, or the application thereof to any hospital or circumstances does not receive approval by the centers for medicare and medicaid services as described in section 17(1)(b) of this act or is determined to be unconstitutional or otherwise invalid, the other provisions of this chapter or its application to hospitals or circumstances other than those to which it is held invalid shall not be affected thereby.

(2) In the event that any portion of this chapter shall have been validly implemented and the entire chapter is later rendered ineffective under this section, prior assessments and payments under the validly implemented portions shall not be affected.

(3) In the event that the payment under section 11 of this act, or the application thereof to any hospital or circumstances does not receive approval by the centers for medicare and medicaid services as described in section 17(1)(b) of this act or is determined to be unconstitutional or otherwise invalid, the amount of the assessment shall be adjusted under section 6(1)(c) of this act.

Sec. 19. 2009 c 564 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM

General Fund--State Appropriation (FY 2010).....	\$1,597,387,000
General Fund--State Appropriation (FY 2011).....	\$1,984,797,000
General Fund--Federal Appropriation.....	\$5,210,672,000
General Fund--Private/Local Appropriation.....	\$12,903,000
Emergency Medical Services and Trauma Care Systems	
Trust Account--State Appropriation.....	\$15,076,000
Tobacco Prevention and Control Account--	
State Appropriation.....	\$3,766,000
TOTAL APPROPRIATION.....	\$8,824,601,000

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

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) In accordance with RCW 74.46.625, \$6,000,000 of the general fund--federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the

payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate- setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) \$1,110,000 of the general fund--federal appropriation and \$1,105,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) \$9,818,000 of the general fund--state appropriation for fiscal year 2011, and \$9,865,000 of the general fund--federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11

biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$6,570,000 of the general fund--state appropriation for fiscal year 2010, which is appropriated in section 204(1) of this act, and \$1,500,000 of the general fund--state appropriation for fiscal year 2011, which is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. Sufficient amounts are appropriated in this section for the remaining state grants for the participating hospitals.

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) Sufficient amounts are appropriated in this section for the department to continue podiatry services for medicaid-eligible adults.

(11) Sufficient amounts are appropriated in this section for the department to provide an adult dental benefit that is at least equivalent to the benefit provided in the 2003-05 biennium.

(12) \$93,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--federal appropriation are provided solely for the department to pursue a federal Medicaid waiver pursuant to Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(14) Appropriations in this section are sufficient for the department to continue to fund family planning nurses in the community services offices.

(15) The department, in coordination with stakeholders, will conduct an analysis of potential savings in utilization of home dialysis. The department shall present its findings to the appropriate house of representatives and senate committees by December 2010.

(16) A maximum of \$166,875,000 of the general fund--state appropriation and \$38,389,000 of the general fund--federal appropriation may be expended in the fiscal biennium for the general assistance-unemployable medical program, and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund--state appropriation for fiscal year 2010 and \$10,892,000 of the general fund--federal appropriation are provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of general assistance-unemployable. Pursuant to RCW 74.09.035, the department shall not expend for the general assistance medical care

services program any amounts in excess of the amounts provided in this subsection.

(17) If the department determines that it is feasible within the amounts provided in subsection (16) of this section, and without the loss of federal disproportionate share hospital funds, the department shall contract with the carrier currently operating a managed care pilot project for the provision of medical care services to general assistance-unemployable clients. Mental health services shall be included in the services provided through the managed care system. If the department determines that it is feasible, effective October 1, 2009, in addition to serving clients in the pilot counties, the carrier shall expand managed care services to clients residing in at least the following counties: Spokane, Yakima, Chelan, Kitsap, and Cowlitz. If the department determines that it is feasible, the carrier shall complete implementation into the remaining counties. Total per person costs to the state, including outpatient and inpatient services and any additional costs due to stop loss agreements, shall not exceed the per capita payments projected for the general assistance-unemployable eligibility category, by fiscal year, in the February 2009 medical assistance expenditures forecast. The department, in collaboration with the carrier, shall seek to improve the transition rate of general assistance clients to the federal supplemental security income program.

(18) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs and outcomes for general assistance medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system.

(19) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(20) State funds shall not be used by hospitals for advertising purposes.

(21) The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1, 2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

(22) \$9,350,000 of the general fund--state appropriation for fiscal year 2010, \$8,313,000 of the general fund--state appropriation for fiscal year 2011, and \$20,371,000 of the general fund--federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(23) \$506,000 of the general fund--state appropriation for fiscal year 2011 and \$657,000 of the general fund--federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(24) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(25) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would otherwise pay for hospitalization for the child receiving medically intensive home care services.

(26) \$425,000 of the general fund--state appropriation for fiscal year 2010, \$425,000 of the general fund--state appropriation for fiscal year 2011, and \$1,580,000 of the general fund--federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(27) The department, in conjunction with the office of financial management, shall ~~((reduce outpatient and inpatient hospital rates and))~~ implement a prorated inpatient payment policy. ~~((In determining the level of reductions needed, the department shall include in its calculations services paid under fee for service, managed care, and certified public expenditure payment methods; but reductions shall not apply to payments for psychiatric inpatient services or payments to critical access hospitals.))~~

(28) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based medicine and protection of patient access without significant disruption in treatment.

(29) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(30) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

(31) The department shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(32) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental

illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race.

(33) The department shall direct graduate medical education funds to programs that focus on primary care training.

(34) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$53,000 of the general fund--federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

(35) \$63,000 of the general fund--state appropriation for fiscal year 2010, \$583,000 of the general fund--state appropriation for fiscal year 2011, and \$864,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(36) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520.

Sec. 20. RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003

account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

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

NEW SECTION. **Sec. 21.** EXPIRATION. This chapter expires July 1, 2013.

NEW SECTION. **Sec. 22.** Upon expiration of chapter 74.--RCW (the new chapter created in section 24 of this act), inpatient and outpatient hospital reimbursement rates shall return to a rate structure as if the four percent Medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009, or as otherwise specified in the 2013-15 biennial operating appropriations act.

NEW SECTION. **Sec. 23.** EMERGENCY. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 24.** NEW CHAPTER. Sections 1 through 14, 16 through 18, and 21 of this act constitute a new chapter in Title 74 RCW."

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

MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli to the committee striking amendment be adopted:

On page 5, after line 29, strike all material through line 35 and insert the following:

"(e) The sum of thirty-six million dollars for the fiscal year 2011 may be expended in lieu of state general fund payments to hospitals. The sum of thirty-six million five-hundred thousand dollars for fiscal year 2011 shall be expended to increase subsidized basic health plan enrollment by approximately 9,830 individuals. An additional sum of thirteen million five-hundred thousand dollars for fiscal year 2011 may be expended to increase enrollment in the basic health plan by approximately an additional 5,770 individuals if additional federal financial participation under section 5001 of P.L. No. 111-5 is extended beyond December 31, 2010. The sum of eighty-three million five-hundred thousand dollars for the 2011-13

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

fiscal biennium may be expended to increase subsidized basic health plan enrollment by approximately 15,650 individuals above the levels funded in the 2009-11 biennial operating appropriations act. If federal financial participation becomes available to support the basic health program, enrollment and/or funding levels may be adjusted accordingly to support continued enrollment pursuant to the 2011-13 biennial operating appropriations act."

Re-number the sections consecutively and correct any internal references accordingly.

On page 13, beginning on line 21 strike all of section 10 and insert the following:

"NEW SECTION. Sec. 10. INCREASED HOSPITAL PAYMENTS. (1) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act and for services rendered on or after February 1, 2010, the department shall increase the medicaid inpatient and outpatient fee-for-service hospital reimbursement rates in effect on June 30, 2009, by the percentages specified below:

- (a) Prospective payment system hospitals:
 - (i) Inpatient psychiatric services: ten percent;
 - (ii) Inpatient services: nine percent;
 - (iii) Outpatient services: twenty-seven percent.
- (b) Harborview medical center and University of Washington medical center:

- (i) Inpatient psychiatric services: two percent;
- (ii) Inpatient services: two percent;
- (iii) Outpatient services: Twenty percent.

(c) Rehabilitation hospitals:

- (i) Inpatient services: ten percent;
- (ii) Outpatient services: thirty-two percent;
- (d) Psychiatric hospitals:

- (i) Inpatient psychiatric services: ten percent;
- (ii) Inpatient services: ten percent.

(2) For claims processed for services rendered on or after February 1, 2010, but prior to satisfaction of the applicable conditions specified in section 17(1) of this act, the department shall, within sixty calendar days after satisfaction of those conditions, calculate the amount payable to hospitals in accordance with this section and remit the difference to each hospital that has submitted an otherwise allowable claim for payment for such services."

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

Senator Keiser spoke against adoption of the amendment to the committee striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

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

Senator Marr spoke against adoption of the amendment to the committee striking amendment.

POINT OF ORDER

Senator Schoesler: "I think the derogatory remarks about the knowledge on this side of the aisle are unbecoming of this debate."

REPLY BY THE PRESIDENT

President Owen: "I don't think that the President agrees that those were directed at anybody in particular."

REMARKS BY SENATOR SCHOESLER

Senator Schoesler: "I think the 'uninformed remarks of the people who put this forward,' 'uninformed of members of the

Senate who happen to serve on the fiscal and policy committees' is that not out of order?"

REPLY BY THE PRESIDENT

President Owen: "Senator Schoesler, the President has made his opinion. Senator Marr please be careful of your remarks."

POINT OF ORDER

Senator Pflug: "Thank you Mr. President. I do object to the gentleman saying that I am not informed about the fiscal reality of the hospital situation in this state. That is what he's saying."

REPLY BY THE PRESIDENT

President Owen: "I did not hear the Senator say that you were misinformed about anything."

REMARKS BY SENATOR PFLUG

Senator Pflug: "He's directed his remarks at the previous speaker."

REPLY BY THE PRESIDENT

President Owen: "Senator Pflug, the President has made his opinion. Senator Marr."

Senator McDermott spoke against adoption of the amendment to the committee striking amendment.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 5, after line 29 to the committee striking amendment to Engrossed Second Substitute House Bill No. 2956.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Zarelli to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 17; Nays, 27; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli

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

Absent: Senator Tom

Excused: Senators Benton, McCaslin, Morton and Roach

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted:

On page 14, after line 12, insert the following:

"(3)By December 1, 2012, the department will submit a study to the legislature with recommendations on the amount of the assessments necessary to continue to support hospital payments for the 2013-15 biennium. The evaluation will assess medicaid

hospital payments relative to medicaid hospital costs. The study should address current federal law, including any changes on scope of medicaid coverage and provisions related to provider taxes. The study should also address the state's economic forecast. Based on the forecast, the department should recommend the amount of assessment needed to support future hospital payments and the departmental administrative expenses. Recommendations should be developed with the fiscal committees of the legislature, office of financial management and the Washington state hospital association."

Senators Keiser and Parlette spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Pflug and Hewitt spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Parlette on page 14, after line 12 to the committee striking amendment to Engrossed Second Substitute House Bill No. 2956.

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

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted.

On page 20, strike everything from line 20 through 22, and insert the following:

"(d) If other funding available for the medicaid program is not sufficient to maintain medicaid inpatient and outpatient reimbursement rates for hospitals and small rural disproportionate share payments at one hundred percent of the levels in effect on July 1, 2009; or"

On page 33, on line 4, after "structure" insert the following "no higher than the rate structure in effect as of July 1, 2009"

WITHDRAWAL OF AMENDMENT

On motion of Senator Keiser, the amendment by Senators Keiser and Parlette on page 20, line 20 to the committee striking amendment was withdrawn.

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted.

On page 20, strike everything from line 20 through 22, and insert the following:

"(d) Other funding available for the medicaid program is not sufficient to maintain medicaid inpatient and outpatient reimbursement rates for hospitals and small rural disproportionate share payments at one hundred percent of the levels in effect on July 1, 2009; or"

On page 33, on line 4, after "structure" insert the following "no higher than the rate structure in effect as of July 1, 2009"

Senators Keiser, Parlette and Zarelli spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Parlette on page 20, line 20 to the committee striking amendment to Engrossed Second Substitute House Bill No. 2956.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Second Substitute House Bill No. 2956.

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

MOTION

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

On page 1, line 3 of the title, after "Washington;" strike the remainder of the title and insert "amending 2009 c 564 s 209 (uncodified); reenacting and amending RCW 43.84.092; adding a new section to chapter 70.47 RCW; adding a new chapter to Title 74 RCW; creating a new section; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute House Bill No. 2956 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Marr spoke in favor of passage of the bill.

Senators Zarelli and Pflug spoke against passage of the bill.

POINT OF ORDER

Senator Keiser: "I object to the implication that has been made that this was in some way a hospital association...."

REPLY BY THE PRESIDENT

President Owen: "Senator Keiser, that objection has no merit in this debate. Senator Pflug."

Senator Franklin spoke in favor of passage of the bill.

Senators Hewitt, Schoesler and Parlette spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2956 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2956 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 17; Absent, 0; Excused, 4.

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

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Gordon, Haugen, Hewitt, Holmquist, Honeyford, King, Parlette, Pflug, Schoesler, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton and Roach

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2956 as amended by the Senate, having received the

FIFTH DAY, MARCH 19, 2010

constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:47 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:05 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

March 19, 2010

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6572. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 19, 2010

MR. PRESIDENT:
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2617
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 19, 2010

MR. PRESIDENT:
The House has passed:
HOUSE BILL 1697,
SUBSTITUTE HOUSE BILL 2580,
ENGROSSED SUBSTITUTE HOUSE BILL 3175
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

2010 1ST SPECIAL SESSION

Senator McDermott moved that Gubernatorial Appointment No. 9253, Vanessa R. Gaston, as a member of the Human Rights Commission, be confirmed.

Senator McDermott spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Hargrove, Haugen, Kohl-Welles and Ranker were excused.

MOTION

On motion of Senator Brandland, Senators Delvin and Pflug were excused.

APPOINTMENT OF VANESSA R. GASTON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9253, Vanessa R. Gaston as a member of the Human Rights Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9253, Vanessa R. Gaston as a member of the Human Rights Commission and the appointment was confirmed by the following vote: Yeas, 33; Nays, 0; Absent, 5; Excused, 11.

Voting yea: Senators Becker, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hewitt, Holmquist, Honeyford, Kastama, Kauffman, Kilmer, King, Kline, Marr, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Hatfield, Hobbs, Jacobsen, Keiser and McAuliffe

Excused: Senators Benton, Brown, Delvin, Hargrove, Haugen, Kohl-Welles, McCaslin, Morton, Pflug, Ranker and Roach

Gubernatorial Appointment No. 9253, Vanessa R. Gaston, having received the constitutional majority was declared confirmed as a member of the Human Rights Commission.

MOTION

On motion of Senator Marr, Senators Hatfield, Hobbs, Jacobsen, Keiser and McAuliffe were excused.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator King moved that Gubernatorial Appointment No. 9215, Paul McDonald, as a member of the Board of Trustees, Yakima Valley Community College District No. 16, be confirmed.

Senator King spoke in favor of the motion.

APPOINTMENT OF PAUL MCDONALD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9215, Paul McDonald as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9215, Paul McDonald as a member of the Board of Trustees, Yakima Valley Community College District No. 16 and the appointment was confirmed by the following vote: Yeas, 37; Nays, 0; Absent, 0; Excused, 12.

Voting yeas: Senators Becker, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Haugen, Hewitt, Holmquist, Honeyford, Kastama, Kauffman, Kilmer, King, Kline, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Delvin, Hargrove, Hatfield, Hobbs, Jacobsen, Keiser, Kohl-Welles, McCaslin, Morton, Ranker and Roach

Gubernatorial Appointment No. 9215, Paul McDonald, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL 6572

MOTION

At 2:15 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:09 p.m. by President Owen.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3014, by House Committee on Finance (originally sponsored by Representatives Kessler, Morrell and Van De Wege)

Modifying the sales and use tax deferral program for investment projects in rural counties.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.60.010 and 1985 c 232 s 1 are each amended to read as follows:

The legislature finds that there are several areas in the state that are characterized by very high levels of unemployment and poverty. The ~~((legislative (legislature))~~ legislature further finds that economic stagnation is the primary cause of this high unemployment rate and poverty; that new state policies are necessary in order to promote economic stimulation and new employment opportunities in these distressed areas; and that policies providing incentives for economic growth in these distressed areas are essential. For these reasons, the legislature ~~((hereby))~~ reestablishes a tax deferral program to be effective solely in distressed ~~((areas and under circumstances where the deferred tax payments are for investments or costs that result in the creation of a specified number of jobs))~~ counties. The legislature declares that this limited program serves the vital public purpose of creating

employment opportunities and reducing poverty in the distressed ~~((areas))~~ counties of the state.

Sec. 2. RCW 82.60.020 and 2010 c ... (SHB 3066) s 138 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means ((a));

(a) Through June 30, 2010, a rural county as defined in RCW 82.14.370; and

(b) Beginning July 1, 2010, a qualifying county.

(4)(a) "Eligible investment project" means an investment project that is located, as of the date the application required by RCW 82.60.030 is received by the department, in an eligible area as defined in subsection (3) of this section.

(b) ~~((The lessor or owner of a qualified building is not eligible for a deferral unless:~~

~~—(i) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or~~

~~—(ii)(A) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;~~

~~—(B) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and~~

~~—(C) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.~~

~~—(e)) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(4), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part, or investment projects ~~((which))~~ that have already received deferrals under this chapter.~~

(5) "Initiation of construction" has the same meaning as in RCW 82.63.010.

(6) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(7) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; (ii) the activities performed by research and development laboratories and commercial testing laboratories((:)); and (iii) the conditioning of vegetable seeds; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(8) "Person" has the meaning given in RCW 82.04.030.

(9) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an

FIFTH DAY, MARCH 19, 2010

integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral ~~((shall))~~ must be determined by apportionment of the costs of construction under rules adopted by the department.

(10) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year. The term "entire tax year" means a full-time position that is filled for a period of twelve consecutive months. The term "full-time" means at least thirty-five hours a week, four hundred fifty-five hours a quarter, or one thousand eight hundred twenty hours a year.

(11) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(12) "Qualifying county" means a county that has an unemployment rate, as determined by the employment security department, which is at least twenty percent above the state average for the three calendar years immediately preceding the year in which the list of qualifying counties is established or updated, as the case may be, as provided in section 3 of this act.

~~((13))~~ (13) "Recipient" means a person receiving a tax deferral under this chapter.

~~((14))~~ (14) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

NEW SECTION. Sec. 3. A new section is added to chapter 82.60 RCW to read as follows:

The department, with the assistance of the employment security department, must establish a list of qualifying counties effective July 1, 2010. The list of qualifying counties is effective for a twenty-four month period and must be updated by July 1st of the year that is two calendar years after the list was established or last updated, as the case may be.

NEW SECTION. Sec. 4. A new section is added to chapter 82.60 RCW to read as follows:

The lessor or owner of a qualified building is not eligible for a deferral unless:

(1) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

2010 1ST SPECIAL SESSION

Sec. 5. RCW 82.60.030 and 1994 sp.s. c 1 s 2 are each amended to read as follows:

(1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application ~~((shall))~~ must be made to the department in a form and manner prescribed by the department. The application ~~((shall))~~ must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department ~~((shall))~~ must rule on the application within sixty days.

(2) This section expires July 1, 2020.

Sec. 6. RCW 82.60.040 and 2004 c 25 s 4 are each amended to read as follows:

(1) The department ~~((shall))~~ must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project ~~((that is located in an eligible area as defined in RCW 82.60.020)).~~

(2) The department ~~((shall))~~ must keep a running total of all deferrals granted under this chapter during each fiscal biennium.

(3) This section expires July 1, ~~((2010))~~ 2020.

Sec. 7. RCW 82.60.049 and 2004 c 25 s 5 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Eligible area" also means a designated community empowerment zone approved under RCW 43.31C.020 ~~((or a county containing a community empowerment zone)).~~

(b) "Eligible investment project" also means an investment project in an eligible area as defined in this section.

(2) In addition to the provisions of RCW 82.60.040, the department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW, on each eligible investment project that is located in an eligible area, if the applicant establishes that at the time the project is operationally complete:

(a) The applicant will hire at least one qualified employment position for each seven hundred fifty thousand dollars of investment for which a deferral is requested; and

(b) The positions will be filled by persons who at the time of hire are residents of the community empowerment zone. As used in this subsection, "resident" means the person makes his or her home in the community empowerment zone or the county in which the zone is located. A mailing address alone is insufficient to establish that a person is a resident for the purposes of this section. The persons must be hired after the date the application is filed with the department.

(3) All other provisions and eligibility requirements of this chapter apply to applicants eligible under this section.

(4) The qualified employment position must be filled by the end of the calendar year following the year in which the project is certified as operationally complete. If a person does not meet the requirements for qualified employment positions by the end of the second calendar year following the year in which the project is certified as operationally complete, all deferred taxes are immediately due.

Sec. 8. RCW 82.60.060 and 2000 c 106 s 5 are each amended to read as follows:

(1) The recipient ~~((shall))~~ must begin paying the deferred taxes in the third year after the date certified by the department as the date on which the ~~((construction))~~ investment project has been operationally completed. The first payment will be due on

December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(2) The department may authorize an accelerated repayment schedule upon request of the recipient.

(3) Interest ~~((shall))~~ may not be charged on any taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

Sec. 9. RCW 82.60.070 and 2010 c ... (SHB 3066) s 139 are each amended to read as follows:

(1)(a) Each recipient of a deferral of taxes granted under this chapter must file a complete annual survey with the department under RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010). If the economic benefits of the deferral are passed to a lessee as provided in ~~((RCW 82.60.020(4)))~~ section 4 of this act, the lessee must file a complete annual survey, and the applicant is not required to file a complete annual survey.

(b) The department must use the information reported on the annual survey required by this section to study the tax deferral program authorized under this chapter. The department must report to the legislature by December 1, ~~((2009))~~ 2019. The report must measure the effect of the program on job creation, the number of jobs created for residents of eligible areas, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(2) Except as provided in section 10 of this act, if, on the basis of a survey under ~~((section))~~ RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010) or other information, the department finds that an investment project is not eligible for tax deferral under this chapter, the amount of deferred taxes outstanding for the project is, according to the repayment schedule in RCW 82.60.060, will be immediately due. For purposes of this subsection (2)(a), the repayment schedule in RCW 82.60.060 is tolled during the period of time that a taxpayer is receiving relief from repayment of deferred taxes under section 10 of this act.

(3) A recipient who must repay deferred taxes under subsection (2) of this section because the department has found that an investment project is not eligible for tax deferral under this chapter is no longer required to file annual surveys under RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010) beginning on the date an investment project is used for nonqualifying purposes.

(4) Notwithstanding any other provision of this section or RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010), deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

NEW SECTION. Sec. 10. A new section is added to chapter 82.60 RCW to read as follows:

(1) Subject to the conditions in this section, a person is not liable for the amount of deferred taxes outstanding for an investment project when the person temporarily ceases to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities in a county with a population of less than twenty thousand persons for a period not to exceed twenty- four months from the date that the department sent its assessment for the amount of outstanding deferred taxes to the taxpayer.

(2) The relief from repayment of deferred taxes under this section does not apply unless the number of qualified employment positions maintained at the investment project after manufacturing or research and development activities are temporarily ceased is at least ten percent of the number of qualified employment positions employed at the investment project at the time the deferral was approved by the department. If a person has been approved for more than one deferral under this chapter, relief from repayment of deferred taxes under this section does not apply unless the number of qualified employment positions maintained at the investment project after manufacturing or research and development activities are temporarily ceased is at least ten percent of the highest number of qualified employment positions at the investment project at the time any of the deferrals were approved by the department. If, at any time during the twenty-four month period after the department has sent the taxpayer an assessment for outstanding deferred taxes resulting from the person temporarily ceasing to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities, the number of qualified employment positions falls below the ten percent threshold in this subsection, the amount of deferred taxes outstanding for the project is immediately due.

(3) The lessor of an investment project for which a deferral has been granted under this chapter who has passed the economic benefits of the deferral to the lessee is not eligible for relief from the payment of deferred taxes under this section.

(4) A person seeking relief from the payment of deferred taxes under this section must apply to the department in a form and manner prescribed by the department. The application required under this subsection must be received by the department within thirty days of the date that the department sent its assessment for outstanding deferred taxes resulting from the person temporarily ceasing to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities. The department must approve applications that meet the requirements in this section for relief from the payment of deferred taxes.

(5) A person is entitled to relief under this section only once.

(6) A person whose application for relief from the payment of deferred taxes has been approved under this section must continue to file an annual survey as required under RCW 82.60.070(1) or any successor statute. In addition, the person must file, in a form and manner prescribed by the department, a report on the status of the business and the outlook for commencing manufacturing or research and development activities.

Sec. 11. RCW 82.62.010 and 2010 c ... (E2SHB 1597) s 232 are each amended to read as follows:

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

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means ~~((an area))~~ a "rural county" as defined in RCW ~~((82.60.020))~~ 82.14.370.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010((4)) or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; and (ii) the activities performed by research and development laboratories and commercial testing laboratories; and

(b) Beginning July 1, 2010, the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.

NEW SECTION. Sec. 12. RCW 82.60.900 and 82.60.901 are each decodified.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) RCW 82.60.050 (Expiration of RCW 82.60.030 and 82.60.040) and 2004 c 25 s 6, 1994 sp.s. c 1 s 7, 1993 sp.s. c 25 s 404, 1988 c 41 s 5, & 1985 c 232 s 10; and

(2) RCW 82.60.110 (Competing projects--Impact study) and 1998 c 245 s 169 & 1994 sp.s. c 1 s 8.

NEW SECTION. Sec. 14. Except for section 3 of this act, this act takes effect July 1, 2010."

Senator Kastama spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to Engrossed Substitute House Bill No. 3014.

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

MOTION

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

On page 1, line 2 of the title, after "counties;" strike the remainder of the title and insert "amending RCW 82.60.010, 82.60.020, 82.60.030, 82.60.040, 82.60.049, 82.60.060, 82.60.070, and 82.62.010; adding new sections to chapter 82.60 RCW; decodifying RCW 82.60.900 and 82.60.901; repealing RCW 82.60.050 and 82.60.110; providing an effective date; and providing expiration dates."

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Substitute House Bill No. 3014 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

Senator Sheldon spoke against passage of the bill.

MOTION

On motion of Senator Brandland, Senator Stevens was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3014. as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3014 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 2; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove,

Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Schoesler and Sheldon

Excused: Senators Benton, Delvin, McCaslin, Morton, Roach and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3014 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 19, 2010."

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

The motion by Senator Eide carried and debate was limited through March 19, 2010 by voice vote.

MOTION

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

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6143, by Senate Committee on Ways & Means (originally sponsored by Senator Prentice).

Relating to revenue and taxation. Revised for 1st Substitute: Modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

The bill was read on Third Reading.

MOTION

On motion of Senator Prentice, the rules were suspended and Engrossed Substitute Senate Bill No. 6143 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6143, by Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

Relating to revenue and taxation. Revised for 1st Substitute: Modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

The measure was read the second time.

MOTION

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

On page 14, at the beginning of line 32, strike "3Aa-7" and insert "3a-7"

On page 35, after line 30, insert the following:

"**Sec. 404.** RCW 82.04.4266 and 2010 c ... (SHB 3066) s 111 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruit((s)) or vegetable((s)) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter ... (SHB 3066), Laws of 2010).

(3)(a) For the purposes of this section, "fruit or vegetable products" means:

(i) Products comprised exclusively of fruits, vegetables, or both; and

(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

(b) "Fruit or vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed.

(4) This section expires July 1, 2012.

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 42, after line 34, insert the following:

"**Sec. 405.** RCW 82.04.260 and 2010 c ... (SHB 3066) s 107 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d)(i) Beginning July 1, 2012, fruit(s) or vegetable(s) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruit(s) or vegetable(s) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(ii) For purposes of this subsection, "fruit or vegetable products" means:

(A) Products comprised exclusively of fruits, vegetables, or both; or

(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume;

(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Wood biomass fuel as defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.~~

~~(5))~~ Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities is equal

to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((6))~~ (5) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((7))~~ (6) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

~~((8))~~ (7) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

~~((9))~~ (8) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

~~((10))~~ (9) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

~~((11))~~ (10)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making

sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection ~~((44))~~ (10) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(c) For the purposes of this subsection ~~((44))~~ (10), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection ~~((44))~~ (10) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter ... (SHB 3066), Laws of 2010).

(e) This subsection ~~((44))~~ (10) does not apply on and after July 1, 2024.

~~((42))~~ (11)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(d) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection ~~((42))~~ (11)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from

the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid- fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection ~~((42))~~ (11)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection ~~((42))~~ (11) must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter ... (SHB 3066), Laws of 2010).

~~((43))~~ (12) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~((44))~~ (13)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection ~~((44))~~ (13) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter ... (SHB 3066), Laws of 2010).

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 43, after line 20, insert the following:

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

"Sec. 406. RCW 82.04.250 and 2010 c ... (SHB 3066) s 106 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260(~~((4+))~~) (10) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3)(a) Upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter ... (SHB 3066), Laws of 2010).

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 51, after line 23, insert the following:

"Sec. 412. RCW 82.04.4463 and 2010 c ... (SHB 3066) s 116 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i)(A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(~~((4+))~~) (10)(b), or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(ii)(A) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(~~((4+))~~) (10)(b), or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4+))~~) (10)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4+))~~) (10)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

(A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(~~((4+))~~) (10) (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

(B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

(C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260(~~((4+))~~) (10) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

(D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

(E) As used in (b)(ii)(C) of this subsection (2)(~~((b)(ii))~~), "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person claiming the credit under this section must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter ... (SHB 3066), Laws of 2010).

(6) This section expires July 1, 2024.

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 52, line 27, strike all of section 413

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 55, line 14, strike all of sections 415 and 416

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 61, beginning on line 12, strike all of section 503 and insert the following:

"**Sec. 503.** RCW 82.04.360 and 2010 c ... (E2SHB 1597) s 207 are each amended to read as follows:

(1) This chapter does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee (~~shall~~) includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.

(2) A booth renter is an independent contractor for purposes of this chapter. For purposes of this subsection, "booth renter" means any person who:

(a) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW; and

(b) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

(3) Until July 1, 2010, this chapter does not apply to amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors. Beginning June 1, 2010, such amounts are taxable under RCW 82.04.290(2).

On page 72, after line 3, strike all of section 902 and insert the following:

"**Sec. 902.** RCW 82.60.020 and 2010 c ... (SHB 3066) s 138 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means a rural county as defined in RCW 82.14.370.

(4)(a) "Eligible investment project" means an investment project in an eligible area as defined in subsection (3) of this section.

(b) The lessor or owner of a qualified building is not eligible for a deferral unless:

(i) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(ii)(A) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(B) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and

(C) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(c) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(4), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of (~~which~~) that the cogeneration project is an integral part, or investment projects which have already received deferrals under this chapter.

(5) "Initiation of construction" has the same meaning as in RCW 82.63.010.

(6) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(7) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes;

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; (ii) the activities performed by research and development laboratories and commercial testing laboratories; and (iii) the conditioning of vegetable seeds; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(8) "Person" has the meaning given in RCW 82.04.030.

(9) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral must be determined by apportionment of the costs of construction under rules adopted by the department.

(10) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year. The term "entire tax year" means a full-time position that is filled for a period of twelve consecutive months. The term "full-time" means at least thirty-five hours a week, four hundred fifty-five hours a quarter, or one thousand eight hundred twenty hours a year.

(11) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(12) "Recipient" means a person receiving a tax deferral under this chapter.

(13) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

Sec. 903. RCW 82.62.010 and 2007 c 485 s 1 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means an area as defined in RCW 82.60.020.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010((5))(4) or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; and (ii) the activities performed by research and development laboratories and commercial testing laboratories; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.

Sec. 904. RCW 82.62.010 and 2010 c ... (E2SHB 1597) s 232 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means an area as defined in RCW 82.60.020.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010(4) or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; and (ii) the activities performed by research and development laboratories and commercial testing laboratories; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market

testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 77, strike all of Part XII

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 94, line 14, after "taxpayer," strike "subject to the tax" and insert "which reports at least fifty percent of its taxable income"

On page 95, line 19, after "paying" strike "the" and insert "at least fifty percent of their"

On page 105, line 6, after "after" strike "July" and insert "June"

On page 106, beginning on line 1, after "Except" strike all material through "2105 of" on line 2 and insert "as otherwise provided in"

On page 106, after line 5, strike all of section 2110

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, after line 9, insert the following:

NEW SECTION. Sec. 2112. Sections 403, 405, 411, and 901 of this act expire June 10, 2010.

NEW SECTION. Sec. 2113. Sections 404, 406, 412, and 902 of this act take effect June 10, 2010.

NEW SECTION. Sec. 2114. Section 406 of this act expires July 1, 2011.

NEW SECTION. Sec. 2115. Sections 502 and 903 of this act expire July 1, 2010.

NEW SECTION. Sec. 2116. Sections 503 and 904 of this act take effect July 1, 2010.

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, after line 14, insert the following:

NEW SECTION. Sec. 2114. Part XVIII of this act expires June 1, 2013."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, after line 18, strike all of section 2116

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, line 22, after "502" insert ", 503,"

Senator Prentice spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 14, line 32 to Engrossed Substitute Senate Bill No. 6143.

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

MOTION

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

On page 92, after line 3, insert the following:

Sec. 1802. RCW 82.08.0293 and 2010 c ... (E2SHB 1597) s 216 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or

dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, or dietary supplements. For purposes of this subsection, the following definitions apply:

(a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

(d) "Bottled water" means water that is placed in a sealed container or package for human consumption or other consumer uses. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485 ~~((of the federal internal revenue code))~~; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived. Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, after line 18, insert the following:

"NEW SECTION. Sec. 2116. Sections 1801 and 1803 through 1806 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect May 1, 2010.

NEW SECTION. Sec. 2117. Section 1801 of this act expires July 1, 2010.

NEW SECTION. Sec. 2118. Section 1802 of this act takes effect July 1, 2010."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Prentice spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 92, after line 3 to Engrossed Substitute Senate Bill No. 6143.

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

MOTION

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

On page 1, line 6 of the title, after "82.04.423," strike all material through "82.16.110," on line 10 and insert "82.04.4266, 82.04.4266, 82.04.260, 82.04.250, 82.04.250, 82.04.250, 82.04.298, 82.04.334, 82.04.4463, 82.04.4463, 82.08.806, 82.32.550, 82.45.195, 35.102.150, 48.14.080, 82.04.360, 82.45.010, 82.45.080, 82.32.145, 82.60.020, 82.60.020, 82.62.010, 82.62.010, 82.04.4282, 82.08.037, 82.12.037,"

On page 1, line 11 of the title, after "82.08.0293," insert "82.08.0293,"

MOTION

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles and others be adopted:

On page 94, line 3, before "Beginning" insert "(1)"

On page 94, after line 5, insert the following:

"(2) The additional rate in subsection (1) of this section does not apply to persons engaged in the business of scientific research and development services including but not limited to research and development in the physical, engineering, and life sciences (such as agriculture, bacteriological, biotechnology, chemical, life sciences, and physical science research and development laboratories or services) and research and development in the social sciences and humanities (such as archaeological, behavioral, cognitive, economic, language, and learning research or development services)."

Renumber the sections consecutively and correct any internal references accordingly.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles and others on page 94, line 3 to Engrossed Substitute Senate Bill No. 6143.

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

MOTION

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

On page 94, line 5, strike "82.04.260(9)"

Renumber the sections consecutively and correct any internal references accordingly.

Senator Keiser spoke in favor of adoption of the amendment.

POINT OF INQUIRY

Senator Pflug: "Would Senator Keiser yield to a question? Given that the JLARC study showed that the non-profit hospitals contributed significantly less to charity care than the for-profits. I'm having a hard time understanding why they're included in getting a break from the new increase. The public hospitals also

are already given breaks so I'm just trying to understand what the rationale for this was?"

Senator Keiser: "Thank you Senator, I believe that the JLARC study actually did not make any assumption about the for profit hospitals doing more than the non-profit hospitals but did recommend a look at the non-profit hospitals tax status. I'm open and willing to that, to do that as well and have made that clear. Nevertheless, for the increase in this tax proposal it would behoove us. I think, at this point, to exempt the non-profit and public hospitals from the increase."

The President declared the question before the Senate to be the adoption of the amendment by Senator Keiser and others on page 94, line 5 to Engrossed Substitute Senate Bill No. 6143.

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

MOTION

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

On page 94, line 5, strike "82.04.255,"

On page 94, line 11, strike "82.04.255,"

On page 94, line 15, strike "82.04.255,"

On page 95, beginning on line 19, after "82.04.290(2)(a)" strike "82.04.255."

Re-number the sections consecutively and correct any internal references accordingly.

Senator Ranker spoke in favor of adoption of the amendment.

MOTION

On motion of Senator Marr, Senators Hargrove and Tom were excused.

Senator Ranker demanded a roll call.

The President declared that one-sixth of the members did not support the demand and the demand was not sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ranker and others on page 94, line 5 to Engrossed Substitute Senate Bill No. 6143.

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

MOTION

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

On page 96, beginning on line 32, strike "three-tenths" and insert "two-tenths"

On page 98, beginning on line 5, strike "three-tenths" and insert "two-tenths"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Franklin spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Franklin and others on page 96, line 32 to Engrossed Substitute Senate Bill No. 6143.

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

MOTION

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

On Page 99, line 10, strike "June 1, 2010" and insert "January 1, 2011"

On page 99, line 22, after "(3)", strike the following "(a) For remittances made in ((2009 and 2010)) 2011, the working families' tax exemption for the prior year is a retail sales tax exemption equal to the greater of twenty-five dollars or five percent of the credit granted as a result of ((Title) 26 U.S.C. Sec. 32 of the federal internal revenue code in the most recent year for which data is available ((or twenty-five dollars)), adjusted by a proportionate amount reflecting the seven months of increased tax imposed in sections 2002 and 2003 of this act in calendar year 2010."

On page 99, line 30, strike "(b)", and insert "(a)"

On page 99, line 35, strike "(c)", and insert "(b)"

On Page 100, line 27, strike "June 1, 2010" and insert "January 1, 2011"

On Page 100, line 30, strike "January 1, 2011" and insert "January 1, 2012"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Prentice spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 99, line 10 to Engrossed Substitute Senate Bill No. 6143.

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

MOTION

On motion of Senator Prentice, the rules were suspended, Second Engrossed Substitute Senate Bill No. 6143 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice, Hargrove, Brown, McAuliffe and Kline spoke in favor of passage of the bill.

Senators Zarelli, Carrell, Hewitt, Pflug, Schoesler and King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 6143.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 6143 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 18; Absent, 0; Excused, 6.

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

Voting nay: Senators Becker, Brandland, Carrell, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, Parlette, Pflug, Schoesler, Sheldon, Swecker, Tom and Zarelli

Excused: Senators Benton, Delvin, McCaslin, Morton, Roach and Stevens

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6143, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

At 4:18 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Saturday, March 20, 2010.

MOTION

On motion of Senator Eide, Second Engrossed Substitute Senate Bill No. 6143 was immediately transmitted to the House of Representatives.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

MOTION

Draft

1697	President Signed.....	18
Messages	8722	
2580-S	Adopted.....	1
Messages	Introduced.....	1
2617-S2	9195 Michael Grunwald	
Messages	Confirmed.....	4
2672	9196 Mariellen Gunn	
President Signed.....	Confirmed.....	2
2956-S2	9199 Kristin Hayden	
Other Action.....	Confirmed.....	2
Other Action.....	9210 Bruce L. Lachney	
Second Reading.....	Confirmed.....	4
Third Reading Final Passage.....	9215 Paul McDonald	
3014-S	Confirmed.....	18
Other Action.....	9222 Daniel O'Neal	
Second Reading.....	Confirmed.....	4
Third Reading Final Passage.....	9249 Kasey Webster	
3175-S	Confirmed.....	3
Messages	9251 Chad R. Wright	
4409	Confirmed.....	4
President Signed.....	9253 Vanessa R. Gaston	
6143-S	Confirmed.....	17
Other Action.....	9254 Lynette D. Jones	
Second Reading.....	Confirmed.....	2
Third Reading.....	PRESIDENT OF THE SENATE	
Third Reading Final Passage.....	Reply by the President.....	15, 16
6221	WASHINGTON STATE SENATE	
Other Action.....	Point of Inquiry, Senator Pflug.....	30
Second Reading.....	Point of Order, Senator Keiser.....	16
Third Reading.....	Point of Order, Senator Pflug.....	15
Third Reading Final Passage.....	Point of Order, Senator Schoesler.....	15
6572-S	Remarks by Senator Pflug.....	15
Messages	Remarks by Senator Schoesler.....	15