2008

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
SIXTIETH LEGISLATURE
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WASHINGTON SESSION LAWS
GENERAL INFORMATION

1. EDITIONS AVALIABLE.

   (a) *General Information.* The session laws are printed in a permanent softbound edition containing the accumulation of all laws adopted in the legislative session. The edition contains a subject index and tables indicating Revised Code of Washington sections affected.

   (b) *Where and how obtained - price.* The permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The edition costs $32.10 per volume ($25.00 plus $2.10 for state and local sales tax at 8.4% and $5.00 shipping and handling). All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER.

   The session laws are presented in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

   (a) In amendatory sections

      (i) underlined matter is new matter.

      (ii) deleted matter is ((~~lined out and bracketed between double parentheses~~)).

   (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES.

   (a) Vetoed matter is ***printed in bold italics.***

   (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS. Words and clauses inserted in the session laws under the authority of RCW 44.20.060 are enclosed in [brackets].

5. EFFECTIVE DATE OF LAWS.

   (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 2008 regular session to be June 12, 2008 (midnight June 11th).

   (b) Laws that carry an emergency clause take effect immediately upon approval by the Governor.

   (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

   A cumulative index and tables of all 2007 special session and 2008 laws may be found at the back of the final volume.

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CHAPTER 217

[Engrossed Senate Bill 6591]

INSURANCE PRODUCERS

AN ACT Relating to insurance producers; amending RCW 48.03.020, 48.05.140, 48.05.180, 48.05.465, 48.13.220, 48.14.020, 48.14.040, 48.14.095, 48.15.080, 48.15.140, 48.15.160, 48.18.100, 48.18.180, 48.18.220, 48.18.240, 48.18.289, 48.18.292, 48.18.543, 48.18A.035, 48.18A.060, 48.20.013, 48.20.042, 48.20.072, 48.21A.040, 48.23.380, 48.23.420, 48.23A.040, 48.23A.070, 48.23A.080, 48.24.080, 48.25.140, 48.30.100, 48.30.140, 48.30.150, 48.30.157, 48.30.170, 48.30.200, 48.30.240, 48.30.260, 48.30.270, 48.31.111, 48.31.141, 48.36A.310, 48.36A.330, 48.41.060, 48.43.105, 48.43.335, 48.44.011, 48.44.020, 48.44.164, 48.44.230, 48.46.023, 48.46.170, 48.46.243, 48.46.260, 48.46.340, 48.50.070, 48.56.020, 48.56.080, 48.62.121, 48.62.151, 48.66.055, 48.66.120, 48.76.090, 48.84.050, 48.84.060, 48.92.040, 48.92.090, 48.92.095, 48.92.120, 48.94.005, 48.94.040, 48.97.005, 48.97.015, 48.97.020, 48.97.025, 48.97.900, 48.98.010, 48.98.015, 48.98.020, 48.98.030, 48.99.030, 48.115.001, 48.115.005, 48.115.010, 48.115.015, 48.115.020, 48.115.025, 48.115.030, 48.115.035, 48.115.040, 48.120.005, 48.120.010, 48.125.030, 48.135.010, 51.12.020, and 70.47.015; reenacting and amending RCW 82.04.260; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.23A RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.03.020 and 1947 c 79 s .03.02 are each amended to read as follows:

For the purpose of ascertaining its condition, or compliance with this code, the commissioner may as often as he or she deems advisable examine the accounts, records, documents, and transactions of:

(1) Any insurance ((~~agent, solicitor, broker or adjuster~~)) producer, adjuster, or title insurance agent.

(2) Any person having a contract under which he or she enjoys in fact the exclusive or dominant right to manage or control a stock or mutual insurer.

(3) Any person holding the shares of capital stock or policyholder proxies of a domestic insurer for the purpose of control of its management either as voting trustee or otherwise.

(4) Any person engaged in or proposing to be engaged in or assisting in the promotion or formation of a domestic insurer, or an insurance holding corporation, or a stock corporation to finance a domestic mutual insurer or the production of its business, or a corporation to be attorney-in-fact for a domestic reciprocal insurer.

Sec. 2. RCW 48.05.140 and 1973 1st ex.s. c 152 s 1 are each amended to read as follows:

The commissioner may refuse, suspend, or revoke an insurer's certificate of authority, in addition to other grounds therefor in this code, if the insurer:

(1) Fails to comply with any provision of this code other than those for violation of which refusal, suspension, or revocation is mandatory, or fails to comply with any proper order or regulation of the commissioner.

(2) Is found by the commissioner to be in such condition that its further transaction of insurance in this state would be hazardous to policyholders and the people in this state.

(3) Refuses to remove or discharge a director or officer who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude.

(4) Usually compels claimants under policies either to accept less than the amount due them or to bring suit against it to secure full payment of the amount due.

(5) Is affiliated with and under the same general management, or interlocking directorate, or ownership as another insurer which transacts insurance in this state without having a certificate of authority therefor, except as is permitted by this code.

(6) Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examination or to produce its accounts, records, and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(7) Fails to pay any final judgment rendered against it in this state upon any policy, bond, recognizance, or undertaking issued or guaranteed by it, within thirty days after the judgment became final or within thirty days after time for taking an appeal has expired, or within thirty days after dismissal of an appeal before final determination, whichever date is the later.

(8) Is found by the commissioner, after investigation or upon receipt of reliable information, to be managed by persons, whether by its directors, officers, or by any other means, who are incompetent or untrustworthy or so lacking in insurance company managerial experience as to make a proposed operation hazardous to the insurance-buying public; or that there is good reason to believe it is affiliated directly or indirectly through ownership, control, reinsurance or other insurance or business relations, with any person or persons whose business operations are or have been marked, to the detriment of policyholders or stockholders or investors or creditors or of the public, by bad faith or by manipulation of assets, or of accounts, or of reinsurance.

(9) Does business through ((~~agents or brokers~~)) insurance producers or title insurance agents in this state or in any other state who are not properly licensed under applicable laws and duly enacted regulations adopted pursuant thereto.

Sec. 3. RCW 48.05.180 and 1947 c 79 s .05.18 are each amended to read as follows:

Upon the suspension, revocation or refusal of an insurer's certificate of authority, the commissioner shall give notice thereof to the insurer and shall likewise suspend, revoke or refuse the authority of its appointed insurance producers or title insurance agents to represent it in this state and give notice thereof to ((~~the~~)) these insurance producers or title insurance agents.

Sec. 4. RCW 48.05.465 and 1995 c 83 s 8 are each amended to read as follows:

(1) All RBC reports, to the extent the information is not required to be set forth in a publicly available annual statement schedule, and RBC plans, including the results or report of any examination or analysis of an insurer and any corrective order issued by the commissioner, with respect to any domestic insurer or foreign insurer that are filed with the commissioner constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information shall not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner.

(2) The comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer, and is not a means to rank insurers generally.

Therefore, except as otherwise required under the provisions of RCW 48.05.430 through ((~~48.05.490~~)) 48.05.485, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the RBC levels of any insurer, or of any component derived in the calculation, by any insurer, insurance producer, title insurance agent, ((~~broker,~~)) or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited. However, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its RBC levels, or any of them, or an inappropriate comparison of any other amount to the insurer's RBC levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

(3) The RBC instructions, RBC reports, adjusted RBC reports, RBC plans, and revised RBC plans are solely for use by the commissioner in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and shall not be used by the commissioner for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance that an insurer or any affiliate is authorized to write.

Sec. 5. RCW 48.13.220 and 1982 c 218 s 3 are each amended to read as follows:

(1) After satisfying the requirements of RCW 48.13.260, an insurer may invest any of its funds in common shares of stock in solvent United States corporations that qualify as a sound investment; except, that as to life insurers such investments shall further not aggregate an amount in excess of fifty percent of the insurer's surplus over its minimum required surplus.

(2) The insurer shall not invest in or loan upon the security of more than ten percent of the outstanding common shares of any one such corporation, subject further to the aggregate investment limitation of RCW 48.13.030.

(3) The limitations of subsection (2) of this section shall not apply to investment in the securities of any subsidiary corporations of the insurer which are engaged or organized to engage exclusively in one or more of the following businesses:

(a) Acting as an insurance producer or title insurance agent for its parent or for any of its parent's insurer subsidiaries or affiliates;

(b) Investing, reinvesting, or trading in securities or acting as a securities broker or dealer for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(c) Rendering management, sales, or other related services to any investment company subject to the Federal Investment Company Act of 1940, as amended;

(d) Rendering investment advice;

(e) Rendering services related to the functions involved in the operation of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims appraisal, and collection services;

(f) Acting as administrator of employee welfare benefit and pension plans for governments, government agencies, corporations, or other organizations or groups;

(g) Ownership and management of assets which the parent could itself own and manage: PROVIDED, That the aggregate investment by the insurer and its subsidiaries acquired pursuant to this paragraph shall not exceed the limitations otherwise applicable to such investments by the parent;

(h) Acting as administrative agent for a government instrumentality which is performing an insurance function or is responsible for a health or welfare program;

(i) Financing of insurance premiums;

(j) Any other business activity reasonably ancillary to an insurance business;

(k) Owning one or more subsidiary (i) insurers to the extent permitted by this chapter, or (ii) businesses specified in paragraphs (a) through (k) of this subsection inclusive, or (iii) other businesses the stock of which is eligible under RCW 48.13.240 or 48.13.250, or any combination of such insurers and businesses.

(4) No acquisition of a majority of the total outstanding common shares of any corporation shall be made pursuant to this section unless a notice of intention of such proposed acquisition shall have been filed with the commissioner not less than ninety days, or such shorter period as may be permitted by the commissioner, in advance of such proposed acquisition, nor shall any such acquisition be made if the commissioner at any time prior to the expiration of the notice period finds that the proposed acquisition is contrary to law, or determines that such proposed acquisition would be contrary to the best interests of the parent insurer's policyholders or of the people of this state. The following shall be the only factors to be considered in making the foregoing determination:

(a) The availability of the funds or assets required for such acquisition;

(b) The fairness of any exchange of stock, assets, cash, or other consideration for the stock or assets to be received;

(c) The impact of the new operation on the parent insurer's surplus and existing insurance business and the risks inherent in the parent insurer's investment portfolio and operations;

(d) The fairness and adequacy of the financing proposed for the subsidiary;

(e) The likelihood of undue concentration of economic power;

(f) Whether the effect of the acquisition may be substantially to lessen competition in any line of commerce in insurance or to tend to create a monopoly therein; and

(g) Whether the acquisition might result in an excessive proliferation of subsidiaries which would tend to unduly dilute management effectiveness or weaken financial strength or otherwise be contrary to the best interests of the parent insurer's policyholders or of the people of this state. At any time after an

acquisition, the commissioner may order its disposition if he or she finds, after notice and hearing, that its continued retention is hazardous or prejudicial to the interests of the parent insurer's policyholders. The contents of each notice of intention of a proposed acquisition filed hereunder and information pertaining thereto shall be kept confidential, shall not be subject to subpoena, and shall not be made public unless after notice and hearing the commissioner determines that the interests of policyholders, stockholders, or the public will be served by the publication thereof.

(5) A domestic insurance company may, provided that it maintains books and records which separately account for such business, engage directly in any business referred to in paragraphs (d), (e), (h), and (j) of subsection (3) of this section either to the extent necessarily or properly incidental to the insurance business the insurer is authorized to do in this state or to the extent approved by the commissioner and subject to any limitations he or she may prescribe for the protection of the interests of the policyholders of the insurer after taking into account the effect of such business on the insurer's existing insurance business and its surplus, the proposed allocation of the estimated cost of such business, and the risks inherent in such business as well as the relative advantages to the insurer and its policyholders of conducting such business directly instead of through a subsidiary.

Sec. 6. RCW 48.14.020 and 1986 c 296 s 1 are each amended to read as follows:

(1) Subject to other provisions of this chapter, each authorized insurer except title insurers shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection (2) of this section, such tax shall be in the amount of two percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer during the preceding calendar year other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For the purposes of this section the consideration received by an insurer for the granting of an annuity shall not be deemed to be a premium.

(2) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the form of premiums or premium deposits which are the same in amount, based on the character of the risks, regardless of the length of term for which such policies are written, such tax shall be in the amount of two percent of the gross amount of such premiums and premium deposits upon policies on risks resident, located, or to be performed in this state, in force as of the thirty-first day of December next preceding, less the unused or unabsorbed portion of such premiums and premium deposits computed at the average rate thereof actually paid or credited to policyholders or applied in part payment of any renewal premiums or premium deposits on one-year policies expiring during such year.

(3) Each authorized insurer shall with respect to all ocean marine and foreign trade insurance contracts written within this state during the preceding calendar year, on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax of ninety-five one-hundredths

of one percent on its gross underwriting profit. Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such ocean marine and foreign trade insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amounts refunded, or paid as participation dividends, by such insurers to the holders of such contracts.

(4) The state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their ((~~agents~~)) appointed insurance producers, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or ((~~their agents~~)) these insurance producers.

(5) If an authorized insurer collects or receives any such premiums on account of policies in force in this state which were originally issued by another insurer and which other insurer is not authorized to transact insurance in this state on its own account, such collecting insurer shall be liable for and shall pay the tax on such premiums.

Sec. 7. RCW 48.14.040 and 2007 c 153 s 4 are each amended to read as follows:

(1) If pursuant to the laws of any other state or country, any taxes, licenses, fees, deposits, or other obligations or prohibitions, in the aggregate, or additional to or at a net rate in excess of any such taxes, licenses, fees, deposits or other obligations or prohibitions imposed by the laws of this state upon like foreign or alien insurers and their ((~~agents and solicitors~~)) appointed insurance producers or title insurance agents, are imposed on insurers of this state and their ((~~agents~~)) appointed insurance producers or title insurance agents doing business in such other state or country, a like rate, obligation or prohibition may be imposed by the commissioner, as to any item or combination of items involved, upon all insurers of such other state or country and their ((~~agents~~)) appointed insurance producers or title insurance agents doing business in this state, so long as such laws remain in force or are so applied.

(2) For the purposes of this section, an alien insurer may be deemed to be domiciled in the state wherein it has established its principal office or agency in the United States. If no such office or agency has been established, the domicile of the alien insurer shall be deemed to be the country under the laws of which it is formed.

(3) For the purposes of this section, the regulatory surcharge imposed by RCW 48.02.190 shall not be included in the calculation of any retaliatory taxes, licenses, fees, deposits, or other obligations or prohibitions imposed under this section.

Sec. 8. RCW 48.14.095 and 2003 c 341 s 3 are each amended to read as follows:

(1) This section applies to any insurer or taxpayer, as defined in RCW 48.14.0201, violating or failing to comply with RCW 48.05.030(1), 48.17.060 ((~~(1) or (2)~~)), 48.36A.290(1), 48.44.015(1), or 48.46.027(1).

(2) Except as provided in subsection (7) of this section, RCW 48.14.020, 48.14.0201, and 48.14.060 apply to insurers or taxpayers identified in subsection (1) of this section.

(3) If an insurance contract, health care services contract, or health maintenance agreement covers risks or exposures, or enrolled participants only partially in this state, the tax payable is computed on the portion of the premium that is properly allocated to a risk or exposure located in this state, or enrolled participants residing in this state.

(4) In determining the amount of taxable premiums under subsection (3) of this section, all premiums, other than premiums properly allocated or apportioned and reported as taxable premiums of another state, that are written, procured, or received in this state, or that are for a policy or contract negotiated in this state, are considered to be written on risks or property resident, situated, or to be performed in this state, or for health care services to be provided to enrolled participants residing in this state.

(5) Insurance on risks or property resident, situated, or to be performed in this state, or health coverage for the provision of health care services for residents of this state, is considered to be insurance procured, continued, renewed, or performed in this state, regardless of the location from which the application is made, the negotiations are conducted, or the premiums are remitted.

(6) Premiums on risks or exposures that are properly allocated to federal waters or international waters or under the jurisdiction of a foreign government are not taxable by this state.

(7) This section does not apply to premiums on insurance procured by a licensed surplus line broker under chapter 48.15 RCW.

Sec. 9. RCW 48.15.080 and 1947 c 79 s .15.08 are each amended to read as follows:

A licensed surplus line broker may accept and place surplus line business for any insurance ((~~agent or broker~~)) producer licensed in this state for the kind of insurance involved, and may compensate ((~~such agent or broker~~)) that insurance producer therefor.

Sec. 10. RCW 48.15.140 and 1980 c 102 s 6 are each amended to read as follows:

(1) The commissioner may revoke, suspend, or refuse to renew any surplus line broker's license:

(a) If the surplus line broker fails to file ((~~his~~)) the licensee's annual statement or to remit the tax as required by this chapter; or

(b) If the surplus line broker fails to maintain an office in this state, or to keep the records, or to allow the commissioner to examine ((~~his~~)) the licensee's records as required by this chapter; or

(c) For any of the causes for which ((~~a broker's~~)) an insurance producer's license may be revoked under chapter 48.17 RCW.

(2) The commissioner may suspend or revoke any such license whenever he or she deems suspension or revocation to be for the best interests of the people of this state.

(3) The procedures provided by this code for the suspension or revocation of ((~~general brokers'~~)) insurance producers' licenses shall be applicable to suspension or revocation of a surplus line broker's license.

(4) ((~~No~~)) A surplus line broker whose license has been so revoked shall not again be so licensed within one year thereafter, nor until any fines or delinquent taxes owing by ((~~him~~)) the formal licensee have been paid.

Sec. 11. RCW 48.15.160 and 1987 c 185 s 23 are each amended to read as follows:

(1) The provisions of this chapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed ((~~agents or brokers~~)) insurance producers of this state:

(a) Ocean marine and foreign trade insurances.

(b) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(c) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(d) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in schedule interstate flight, or cargo of such aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

(2) ((~~Agents and brokers~~)) Insurance producers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this chapter and shall meet the requirements imposed upon a surplus line broker pursuant to RCW 48.15.090 and any regulations adopted thereunder. The record shall be preserved for not less than five years from the effective date of the insurance and shall be kept available in this state and open to the examination of the commissioner. The ((~~agent or broker~~)) insurance producer shall furnish to the commissioner at the commissioner's request and on forms as designated and furnished by him or her a report of all such coverages so placed in a designated calendar year.

Sec. 12. RCW 48.18.100 and 2006 c 8 s 214 are each amended to read as follows:

(1) No insurance policy form or application form where written application is required and is to be attached to the policy, or printed life or disability rider or endorsement form may be issued, delivered, or used unless it has been filed with and approved by the commissioner. This section does not apply to:

(a) Surety bond forms;

(b) Forms filed under RCW 48.18.103;

(c) Forms exempted from filing requirements by the commissioner under RCW 48.18.103;

(d) Manuscript policies, riders, or endorsements of unique character designed for and used with relation to insurance upon a particular subject; or

(e) Contracts of insurance procured under the provisions of chapter 48.15 RCW.

(2) Every such filing containing a certification, in a form approved by the commissioner, by either the chief executive officer of the insurer or by an actuary who is a member of the American academy of actuaries, attesting that the filing complies with Title 48 RCW and Title 284 of the Washington Administrative Code, may be used by the insurer immediately after filing with the commissioner. The commissioner may order an insurer to cease using a certified form upon the grounds set forth in RCW 48.18.110. This subsection does not apply to certain types of policy forms designated by the commissioner by rule.

(3) Except as provided in RCW 48.18.103, every filing that does not contain a certification pursuant to subsection (2) of this section must be made not less than thirty days in advance of issuance, delivery, or use. At the expiration of the thirty days, the filed form shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. The commissioner may extend by not more than an additional fifteen days the period within which he or she may affirmatively approve or disapprove any form, by giving notice of the extension before expiration of the initial thirty-day period. At the expiration of the period that has been extended, and in the absence of prior affirmative approval or disapproval, the form shall be deemed approved. The commissioner may withdraw any approval at any time for cause. By approval of any form for immediate use, the commissioner may waive any unexpired portion of the initial thirty-day waiting period.

(4) The commissioner's order disapproving any form or withdrawing a previous approval must state the grounds for disapproval.

(5) No form may knowingly be issued or delivered as to which the commissioner's approval does not then exist.

(6) The commissioner may, by rule, exempt from the requirements of this section any class or type of insurance policy forms if filing and approval is not desirable or necessary for the protection of the public.

(7) Every member or subscriber to a rating organization must adhere to the form filings made on its behalf by the organization. Deviations from the organization are permitted only when filed with the commissioner in accordance with this chapter.

(8) Medical malpractice insurance form filings are subject to the provisions of this section.

(9) Variable contract forms; disability insurance policy forms; individual life insurance policy forms; life insurance policy illustration forms; industrial life insurance contract, individual medicare supplement insurance policy, and long-term care insurance policy forms, which are amended solely to comply with the changes in nomenclature required by RCW 48.18A.035, 48.20.013, 48.20.042, 48.20.072, 48.23.380, 48.23A.040, 48.23A.070, 48.25.140, 48.66.120, and 48.76.090 are exempt from this section.

Sec. 13. RCW 48.18.180 and 2007 c 153 s 2 are each amended to read as follows:

(1) The premium stated in the policy shall be inclusive of all fees, charges, premiums, or other consideration charged for the insurance or for the procurement thereof.

(2) No insurer or its officer, employee, ((~~agent, solicitor~~)) appointed insurance producer, or other representative shall charge or receive any fee,

compensation, or consideration for insurance which is not included in the premium specified in the policy.

(3) Each violation of this section is a gross misdemeanor.

(4) This section does not apply to:

(a) A fee paid to ((~~a broker~~)) an insurance producer by an insured as provided in RCW 48.17.270; or

(b) A regulatory surcharge imposed by RCW 48.02.190.

Sec. 14. RCW 48.18.220 and 1967 ex.s. c 12 s 2 are each amended to read as follows:

Where an insurance producer, title insurance agent, or other representative of an insurer receipts premium money at the time that the insurance producer, title insurance agent, or representative purports to bind coverage, the receipt shall state: (a) That it is a binder, (b) a brief description of the coverage bound, and (c) the identity of the insurer in which the coverage is bound. This section does not apply as to life and disability insurances.

Sec. 15. RCW 48.18.240 and 1947 c 79 s .18.24 are each amended to read as follows:

The commissioner may suspend or revoke the license of any insurance producer or title insurance agent issuing or purporting to issue any binder as to any insurer named therein as to which he or she is not then authorized so to bind.

Sec. 16. RCW 48.18.289 and 2000 c 220 s 1 are each amended to read as follows:

Whenever a notice of cancellation or nonrenewal or an offer to renew is furnished to an insured in accord with any provision of this chapter, a copy of such notice or offer shall be provided within five working days to the insurance producer or title insurance agent on the account ((~~or to the broker of record for the insured~~)). When possible, the copy to the insurance producer or title insurance agent ((~~or broker~~)) may be provided electronically.

Sec. 17. RCW 48.18.292 and 1985 c 264 s 19 are each amended to read as follows:

(1) Each insurer shall be required to renew any contract of insurance subject to RCW 48.18.291 unless one of the following situations exists:

(a) The insurer gives the named insured at least twenty days' notice in writing as provided for in RCW 48.18.291(1), that it proposes to refuse to renew the insurance contract upon its expiration date; and sets forth therein the actual reason for refusing to renew; or

(b) At least twenty days prior to its expiration date, the insurer has communicated its willingness to renew in writing to the named insured, and has included therein a statement of the amount of the premium or portion thereof required to be paid by the insured to renew the policy, including the amount by which the premium or deductibles have changed from the previous policy period, and the date by which such payment must be made, and the insured fails to discharge when due his or her obligation in connection with the payment of such premium or portion thereof; or

(c) The insured's ((~~agent or broker~~)) insurance producer has procured other coverage acceptable to the insured prior to the expiration of the policy period.

(2) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(3) "Renewal" or "to renew" means the issuance and delivery by an insurer of a contract of insurance replacing at the end of the contract period a contract of insurance previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a contract beyond its policy period or term: PROVIDED, HOWEVER, That any contract of insurance with a policy period or term of six months or less whether or not made continuous for successive terms upon the payment of additional premiums shall for the purpose of RCW 48.18.291 through 48.18.297 be considered as if written for a policy period or term of six months: PROVIDED, FURTHER, That any policy written for a term longer than one year or any policy with no fixed expiration date, shall, for the purpose of RCW 48.18.291 through 48.18.297, be considered as if written for successive policy periods or terms of one year.

(4) On and after January 1, 1980, no policy of insurance subject to RCW 48.18.291 shall be issued for a policy period or term of less than six months.

(5) No insurer shall refuse to renew the liability and/or collision coverage of an automobile insurance policy on the basis that an insured covered by the policy of the insurer has submitted one or more claims under the comprehensive, road service, or towing coverage of the policy. Nothing in this subsection shall prohibit the nonrenewal of comprehensive, road service, or towing coverage on the basis of one or more claims submitted by an insured.

Sec. 18. RCW 48.18.543 and 2003 c 116 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Licensee" means every insurance ((~~agent, broker, or solicitor~~)) producer licensed under chapter 48.17 RCW.

(b) "Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single-family dwelling or multiple family dwelling of four or less units.

(c) "Single premium credit insurance" means credit insurance purchased with a single premium payment at inception of coverage.

(2) An insurer or licensee may not issue or sell any single premium credit insurance product in connection with a residential mortgage loan unless:

(a) The term of the single premium credit insurance policy is the same as the term of the loan;

(b) The debtor is given the option to buy credit insurance paid with monthly premiums; and

(c) The single premium credit insurance policy provides for a full refund of premiums to the debtor if the credit insurance is canceled within sixty days of the date of the loan.

(3) This section does not apply to residential mortgage loans if:

(a) The loan amount does not exceed ten thousand dollars, exclusive of fees;

(b) The repayment term of the loan does not exceed five years; and

(c) The term of the single premium credit insurance does not exceed the repayment term of the loan.

Sec. 19. RCW 48.18A.035 and 1983 1st ex.s. c 32 s 7 are each amended to read as follows:

(1) Every individual variable contract issued shall have printed on its face or attached thereto a notice stating in substance that the policy owner shall be permitted to return the policy within ten days after it is received by the policy owner and to have the market value of the assets purchased by its premium, less taxes and investment brokerage commissions, if any, refunded, if, after examination of the policy, the policy owner is not satisfied with it for any reason. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy to the insurer or ((~~agent~~)) insurance producer. If a policy owner pursuant to such notice returns the policy to the insurer at its home or branch office or to the ((~~agent~~)) insurance producer through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued.

(2) No later than January 1, 2010, or when the insurer has used all of its existing paper variable contract forms which were in its possession on July 1, 2009, whichever is earlier, the notice required by subsection (1) of this section shall use the term insurance producer in place of agent.

Sec. 20. RCW 48.18A.060 and 1994 c 92 s 502 are each amended to read as follows:

No person shall be or act as an ((~~agent~~)) insurance producer for the solicitation or sale of variable contracts except while duly appointed and licensed under the insurance code as a ((~~life insurance agent~~)) variable life and variable annuity products insurance producer with respect to the insurer, and while duly licensed as a security salesman or securities broker under a license issued by the director of financial institutions pursuant to the securities act of this state; except that any person who participates only in the sale or offering for sale of variable contracts which fund corporate plans meeting the requirements for qualification under sections 401 or 403 of the United States internal revenue code need not be licensed pursuant to the securities act of this state.

Sec. 21. RCW 48.20.013 and 1983 1st ex.s. c 32 s 9 are each amended to read as follows:

Every individual disability insurance policy issued after January 1, 1968, except single premium nonrenewable policies, shall have printed on its face or attached thereto a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten days of its delivery to the purchaser and to have the premium paid refunded if, after examination of the policy, the purchaser is not satisfied with it for any reason. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy to the insurer or ((~~agent~~)) insurance producer. If a policy holder or purchaser pursuant to such notice, returns the policy to the insurer at its home or branch office or to the ((~~agent~~)) insurance producer through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued.

Sec. 22. RCW 48.20.042 and 1951 c 229 s 5 are each amended to read as follows:

There shall be a provision as follows:

ENTIRE CONTRACTS; CHANGES: This policy, including the endorsements and attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No ((~~agent~~)) insurance producer has authority to change this policy or to waive any of its provisions.

Sec. 23. RCW 48.20.072 and 1951 c 229 s 8 are each amended to read as follows:

There shall be a provision as follows:

REINSTATEMENT: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any ((~~agent~~)) insurance producer duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy: PROVIDED, HOWEVER, That if the insurer or such ((~~agent~~)) insurance producer requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement.

(The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue.)

NEW SECTION. **Sec. 24.** A new section is added to chapter 48.20 RCW to read as follows:

No later than January 1, 2010, or when the insurer has used all of its existing paper disability insurance policy forms which were in its possession on July 1, 2009, whichever is earlier, the provisions required by RCW 48.20.013, 48.20.042, and 48.20.072 shall use the term insurance producer in place of agent.

Sec. 25. RCW 48.21A.040 and 1965 ex.s. c 70 s 30 are each amended to read as follows:

((~~Notwithstanding the provisions of RCW 48.17.200,~~)) Any person licensed to transact disability insurance as an ((~~agent, broker or solicitor~~)) insurance producer may transact extended health insurance and may be paid a commission thereon.

Sec. 26. RCW 48.23.380 and 1983 1st ex.s. c 32 s 10 are each amended to read as follows:

(1) Every individual life insurance policy issued after September 1, 1977, shall have printed on its face or attached thereto a notice stating in substance that the policy owner shall be permitted to return the policy within ten days after it is received by the policy owner and to have the premium paid refunded if, after examination of the policy, the policy owner is not satisfied with it for any reason. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy to the insurer or ((~~agent~~)) insurance producer. If a policy owner pursuant to such notice, returns the policy to the insurer at its home or branch office or to the ((~~agent~~)) insurance producer through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued.

(2) This section shall not apply to individual life insurance policies issued in connection with a credit transaction or issued under a contractual policy change or conversion privilege provision contained in a policy.

(3) No later than January 1, 2010, or when the insurer has used all of its existing paper individual life insurance policy forms which were in its possession on July 1, 2009, whichever is earlier, the notice required by subsection (1) of this section shall use the term insurance producer in place of agent.

Sec. 27. RCW 48.23.420 and 1982 1st ex.s. c 9 s 22 are each amended to read as follows:

RCW 48.23.420 through 48.23.520 do not apply to any reinsurance; group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended; premium deposit fund; variable annuity; investment annuity; immediate annuity; any deferred annuity contract after annuity payments have commenced; or reversionary annuity; nor to any contract which is delivered outside this state through an ((~~agent~~)) insurance producer or other representative of the company issuing the contract.

Sec. 28. RCW 48.23A.040 and 1997 c 313 s 6 are each amended to read as follows:

(1) A basic illustration shall conform with the following requirements:

(a) The illustration shall be labeled with the date on which it was prepared.

(b) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (for example, the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages").

(c) The assumed dates of payment receipt and benefit payout within a policy year shall be clearly identified.

(d) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.

(e) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable.

For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

(f) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

(g) If the illustration shows any nonguaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled nonguaranteed.

(h) The guaranteed elements, if any, shall be shown before corresponding nonguaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the nonguaranteed elements (for example, "see page one for guaranteed elements").

(i) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.

(j) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans, and policy loan interest, as applicable.

(k) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

(l) Any illustration of nonguaranteed elements shall be accompanied by a statement indicating that:

(i) The benefits and values are not guaranteed;

(ii) The assumptions on which they are based are subject to change by the insurer; and

(iii) Actual results may be more or less favorable.

(m) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using nonguaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

(n) If the applicant plans to use dividends or policy values, guaranteed or nonguaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

(2) A basic illustration shall include the following:

(a) A brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(b) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the internal revenue code;

(c) A brief description of any policy features, riders, or options, guaranteed or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(d) Identification and a brief definition of column headings and key terms used in the illustration; and

(e) A statement containing in substance the following: "This illustration assumes that the currently illustrated, nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

(3)(a) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years five, ten, and twenty and at age seventy, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years five, ten, twenty, and thirty.

(i) Policy guarantees;

(ii) Insurer's illustrated scale;

(iii) Insurer's illustrated scale used but with the nonguaranteed elements reduced as follows:

(A) Dividends at fifty percent of the dividends contained in the illustrated scale used;

(B) Nonguaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(C) All nonguaranteed charges, including but not limited to, term insurance charges and mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(b) In addition, if coverage would cease prior to policy maturity or age one hundred, the year in which coverage ceases shall be identified for each of the three bases.

(4) Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this chapter.

(a) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The ((~~agent~~)) insurance producer has told me they are not guaranteed."

(b) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

(5)(a) A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age one hundred, policy maturity, or final expiration; and except for term insurance

beyond the twentieth year, for any year in which the premium outlay and contract premium, if applicable, is to change:

(i) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

(ii) The corresponding guaranteed death benefit, as provided in the policy; and

(iii) The corresponding guaranteed value available upon surrender, as provided in the policy.

(b) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

(c) Nonguaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any nonguaranteed elements are shown, they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a nonguaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

Sec. 29. RCW 48.23A.070 and 1997 c 313 s 9 are each amended to read as follows:

(1) In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

(a) For universal life policies, the report shall include the following:

(i) The beginning and end date of the current report period;

(ii) The policy value at the end of the previous report period and at the end of the current report period;

(iii) The total amounts that have been credited or debited to the policy value during the current report period, identifying each type, such as interest, mortality, expense, and riders;

(iv) The current death benefit at the end of the current report period on each life covered by the policy;

(v) The net cash surrender value of the policy as of the end of the current report period;

(vi) The amount of outstanding loans, if any, as of the end of the current report period; and

(vii) For fixed premium policies: If, assuming guaranteed interest, mortality, and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(viii) For flexible premium policies: If, assuming guaranteed interest, mortality, and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(b) For all other policies, where applicable:

(i) Current death benefit;

(ii) Annual contract premium;
(iii) Current cash surrender value;
(iv) Current dividend;
(v) Application of current dividend; and
(vi) Amount of outstanding loan.

(c) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

(2) If the annual report does not include an in-force illustration, it shall contain the following notice displayed prominently: "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling (insurer's phone number), writing to (insurer's name) at (insurer's address) or contacting your ((~~agent~~)) insurance producer. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in-force illustration.

(3) Upon the request of the policy owner, the insurer shall furnish an in-force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of RCW 48.23A.030 (1) and (2) and 48.23A.040 (1) and (5). No signature or other acknowledgment of receipt of this illustration shall be required.

(4) If an adverse change in nonguaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

Sec. 30. RCW 48.23A.080 and 1997 c 313 s 10 are each amended to read as follows:

(1) The board of directors of each insurer shall appoint one or more illustration actuaries.

(2) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the actuarial standard of practice for compliance with the national association of insurance commissioners model regulation on life insurance illustrations adopted by the actuarial standards board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this chapter.

(3) The illustration actuary shall:

(a) Be a member in good standing of the American academy of actuaries;

(b) Be familiar with the standard of practice regarding life insurance policy illustrations;

(c) Not have been found by the commissioner, following appropriate notice and hearing to have:

(i) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;

(ii) Been found guilty of fraudulent or dishonest practices;

(iii) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

(iv) Resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

(d) Not fail to notify the commissioner of any action taken by a commissioner of another state similar to that under (c) of this subsection;

(e) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in-force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in-force policies are not consistent with the nonguaranteed elements actually being paid, charged, or credited to the same or similar forms, this must be disclosed in the annual certification; and

(f) Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

(i) Fully allocated expenses;

(ii) Marginal expenses; or

(iii) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the national association of insurance commissioners.

(4)(a) The illustration actuary shall file a certification with the board of directors and with the commissioner:

(i) Annually for all policy forms for which illustrations are used; and

(ii) Before a new policy form is illustrated.

(b) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner promptly.

(5) If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner promptly of his or her inability to certify.

(6) A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(a) That the illustration formats meet the requirements of this chapter and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

(b) That the company has provided its ((~~agents~~)) insurance producers with information about the expense allocation method used by the company in its illustrations and disclosed as required in subsection (3)(f) of this section.

(7) The annual certifications shall be provided to the commissioner each year by a date determined by the insurer.

(8) If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the commissioner of that fact promptly and disclose the reason for the change.

NEW SECTION. **Sec. 31.** A new section is added to chapter 48.23A RCW to read as follows:

No later than January 1, 2010, or when the insurer has used all of its existing paper life insurance policy illustration forms which were in its possession on July 1, 2009, whichever is earlier, the provisions required by RCW 48.23A.040 and 48.23A.070 shall use the term insurance producer in place of agent.

Sec. 32. RCW 48.24.080 and 1949 c 190 s 33 are each amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to a principal, or if such principal is a life insurer, by or to such principal, covering when issued not less than twenty-five ((~~agents~~)) insurance producers of such principal, subject to the following requirements:

(1) The ((~~agents~~)) insurance producers eligible for insurance under the policy shall be those who are under contract to render personal services for such principal for a commission or other fixed or ascertainable compensation.

(2) The policy must insure either all of the ((~~agents~~)) insurance producers or all of any class or classes thereof, determined by conditions pertaining to the services to be rendered by such ((~~agents~~)) insurance producers, except that if a policy is intended to insure several such classes it may be issued to insure any such class of which seventy-five percent are covered and extended to other classes as seventy-five percent thereof express the desire to be covered.

(3) The premium on the policy shall be paid by the principal or by the principal and the ((~~agents~~)) insurance producers jointly. When the premium is paid by the principal and ((~~agents~~)) insurance producers jointly and the benefits of the policy are offered to all eligible ((~~agents~~)) insurance producers, the policy, when issued, must insure not less than seventy-five percent of such ((~~agents~~)) insurance producers.

(4) The amounts of insurance shall be based upon some plan which will preclude individual selection.

(5) The insurance shall be for the benefit of persons other than the principal.

(6) Such policy shall terminate if, subsequent to issue, the number of ((~~agents~~)) insurance producers insured falls below twenty-five lives or seventy-five percent of the number eligible and the contribution of the ((~~agents~~)) insurance producers, if the premiums are on a renewable term insurance basis, exceed one dollar per month per one thousand dollars of insurance coverage plus any additional premium per one thousand dollars of insurance coverage charged to cover one or more hazardous occupations.

((~~(7) For the purposes of this section "agents" shall be deemed to include agents, subagents, solicitors, and salesmen.~~))

Sec. 33. RCW 48.25.140 and 1947 c 79 s .25.14 are each amended to read as follows:

(1) There shall be a provision that no ((~~agent~~)) insurance producer shall have the power or authority to waive, change, or alter any of the terms or conditions of any policy; except that, at the option of the insurer, the terms or conditions may be changed by an endorsement signed by a duly authorized officer of the insurer.

(2) No later than January 1, 2010, or when the insurer has used all of its existing paper industrial life insurance contract forms which were in its

possession on July 1, 2009, whichever is earlier, the notice required by subsection (1) of this section shall use the term insurance producer in place of agent.

Sec. 34. RCW 48.30.100 and 1947 c 79 s .30.10 are each amended to read as follows:

No insurer, insurance producer, title insurance agent, ((~~broker, solicitor,~~)) or other person((~~,~~)) shall guarantee or agree to the payment of future dividends or future refunds of unused premiums or savings in any specific or approximate amounts or percentages on account of any insurance contract.

Sec. 35. RCW 48.30.140 and 1994 c 203 s 3 are each amended to read as follows:

(1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, ((~~general agent, agent, broker, or solicitor~~)) insurance producer, or title insurance agent shall, as an inducement to insurance, or after insurance has been effected, directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.

(2) Subsection (1) of this section shall not apply as to commissions paid to a licensed ((~~agent, general agent, broker, or solicitor~~)) insurance producer, or title insurance agent for insurance placed on that person's own property or risks.

(3) This section shall not apply to the allowance by any marine insurer, or marine insurance ((~~agent, general agent, broker, or solicitor~~)) producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the ((~~agent's or broker's~~)) insurance producer's commission.

(4) This section shall not apply to advertising or promotional programs conducted by insurers, insurance producers, or title insurance agents((~~, or brokers~~)) whereby prizes, goods, wares, or merchandise, not exceeding twenty-five dollars in value per person in the aggregate in any twelve month period, are given to all insureds or prospective insureds under similar qualifying circumstances.

(5) This section does not apply to an offset or reimbursement of all or part of a fee paid to ((~~a broker~~)) an insurance producer as provided in RCW 48.17.270.

Sec. 36. RCW 48.30.150 and 1990 1st ex.s. c 3 s 9 are each amended to read as follows:

No insurer, ((~~general agent, agent, broker, solicitor~~)) insurance producer, title insurance agent, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, or sell, buy, or offer or promise to buy or give, or promise, or allow to, or on behalf of, the insured or prospective insured in any manner whatsoever:

(1) Any shares of stock or other securities issued or at any time to be issued on any interest therein or rights thereto; or

(2) Any special advisory board contract, or other contract, agreement, or understanding of any kind, offering, providing for, or promising any profits or special returns or special dividends; or

(3) Any prizes, goods, wares, or merchandise of an aggregate value in excess of twenty-five dollars.

This section shall not be deemed to prohibit the sale or purchase of securities as a condition to or in connection with surety insurance insuring the performance of an obligation as part of a plan of financing found by the commissioner to be designed and operated in good faith primarily for the purpose of such financing, nor shall it be deemed to prohibit the sale of redeemable securities of a registered investment company in the same transaction in which life insurance is sold.

Sec. 37. RCW 48.30.157 and 1988 c 248 s 17 are each amended to read as follows:

Notwithstanding the provisions of RCW 48.30.140, 48.30.150, and 48.30.155, the commissioner may permit an ((~~agent or broker~~)) insurance producer to enter into reasonable arrangements with insureds and prospective insureds to charge a reduced fee in situations where services that are charged for are provided beyond the scope of services customarily provided in connection with the solicitation and procurement of insurance, so that an overall charge to an insured or prospective insured is reasonable taking into account receipt of commissions and fees and their relation, proportionally, to the value of the total work performed.

Sec. 38. RCW 48.30.170 and 1994 c 203 s 4 are each amended to read as follows:

(1) No insured person shall receive or accept, directly or indirectly, any rebate of premium or part thereof, or any favor, advantage, share in dividends, or other benefits, or any valuable consideration or inducement not specified or provided for in the policy, or any commission on any insurance policy to which he or she is not lawfully entitled as a licensed insurance producer or title insurance agent((~~, broker, or solicitor~~)). The retention by the nominal policyholder in any group life insurance contract of any part of any dividend or reduction of premium thereon contrary to the provisions of RCW 48.24.260, shall be deemed the acceptance and receipt of a rebate and shall be punishable as provided by this code.

(2) The amount of insurance whereon the insured has so received or accepted any such rebate or any such commission, other than as to life or disability insurances, shall be reduced in the proportion that the amount or value of the rebate or commission bears to the premium for such insurance. In addition to such reduction of insurance, if any, any such insured shall be liable to a fine of not more than two hundred dollars.

(3) This section shall not apply to an offset or reimbursement of all or part of a fee paid to ((~~a broker~~)) an insurance producer as provided in RCW 48.17.270.

Sec. 39. RCW 48.30.200 and 1947 c 79 s .30.20 are each amended to read as follows:

It shall be unlawful for any insurer or its representative, or any ((~~agent or broker~~)) insurance producer, to hypothecate, sell, or dispose of any promissory note, received in payment for any premium or part thereof on any contract of life insurance or of disability insurance applied for, prior to delivery of the policy to the applicant.

Sec. 40. RCW 48.30.240 and 1947 c 79 s .30.24 are each amended to read as follows:

(1) Any insurer which precipitates, or aids in precipitating or conducting a rate war and by so doing writes or issues a policy of insurance at a less rate than permitted under its schedules filed with the commissioner, or below the rate deemed by him or her to be proper and adequate to cover the class of risk insured, shall have its certificate of authority to do business in this state suspended until such time as the commissioner is satisfied that it is charging a proper rate of premium.

(2) Any insurer which has precipitated, or aided in precipitating or conducting a rate war for the purpose of punishing or eliminating competitors or stifling competition, or demoralizing the business, or for any other purpose, and has ordered the cancellation or rewriting of policies at a rate lower than that provided by its rating schedules where such rate war is not in operation, and has paid or attempted to pay to the insured any return premiums, on any risk so to be rewritten, on which its ((~~agent~~)) appointed insurance producer has received or is entitled to receive ((~~his~~)) a regular commission, such insurer shall not be allowed to charge back to such ((~~agent~~)) appointed insurance producer any portion of ((~~his~~)) a commission on the ground that the same has not been earned.

Sec. 41. RCW 48.30.260 and 1990 1st ex.s. c 3 s 13 are each amended to read as follows:

(1) Every debtor or borrower, when property insurance of any kind is required in connection with the debt or loan, shall have reasonable opportunity and choice in the selection of the ((~~agent, broker,~~)) insurance producer and insurer through whom such insurance is to be placed; but only if the insurance is properly provided for the protection of the creditor or lender, whether by policy or binder, not later than at commencement of risk as to such property as respects such creditor or lender, and in the case of renewal of insurance, only if the renewal policy, or a proper binder therefor containing a brief description of the coverage bound and the identity of the insurer in which the coverage is bound, is delivered to the creditor or lender not later than thirty days prior to the renewal date.

(2) Every person who lends money or extends credit and who solicits insurance on real and personal property must explain to the borrower in prominently displayed writing that the insurance related to such loan or credit extension may be purchased from an insurer or ((~~agent~~)) insurance producer of the borrower's choice, subject only to the lender's right to reject a given insurer or ((~~agent~~)) insurance producer as provided in subsection (3)(b) of this section.

(3) No person who lends money or extends credit may:

(a) Solicit insurance for the protection of property, after a person indicates interest in securing a loan or credit extension, until such person has received a commitment from the lender as to a loan or credit extension;

(b) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an

insurance contract because the contract contains coverage in addition to that required in the credit transaction;

(c) Require that any borrower, mortgagor, purchaser, insurer, ((~~broker, or agent~~)) or insurance producer pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan, or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subsection does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document;

(d) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a contract of insurance which is required by the credit transaction, for the purpose of replacing such insurance;

(e) Require any procedures or conditions of duly licensed ((~~agents, brokers,~~)) insurance producers or insurers not customarily required of those ((~~agents, brokers,~~)) insurance producers or insurers affiliated or in any way connected with the person who lends money or extends credit; or

(f) Require property insurance in an amount in excess of the amount which could reasonably be expected to be paid under the policy, or combination of policies, in the event of a loss.

(4) Nothing contained in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(5) Nothing contained in this section shall apply to credit life or credit disability insurance.

Sec. 42. RCW 48.30.270 and 2005 c 352 s 1 are each amended to read as follows:

(1) No officer or employee of this state, or of any public agency, public authority or public corporation except a public corporation or public authority created pursuant to agreement or compact with another state, and no person acting or purporting to act on behalf of such officer or employee, or public agency or public authority or public corporation, shall, with respect to any public building or construction contract which is about to be, or which has been competitively bid, require the bidder to make application to, or to furnish financial data to, or to obtain or procure, any of the surety bonds or contracts of insurance specified in connection with such contract, or specified by any law, general, special or local, from a particular insurer or ((~~agent or broker~~)) insurance producer.

(2) No such officer or employee or any person, acting or purporting to act on behalf of such officer or employee shall negotiate, make application for, obtain or procure any of such surety bonds or contracts of insurance, except contracts of insurance for builder's risk or owner's protective liability, which can be obtained or procured by the bidder, contractor or subcontractor.

(3) This section shall not be construed to prevent the exercise by such officer or employee on behalf of the state or such public agency, public authority, or public corporation of its right to approve the form, sufficiency or manner or execution of the surety bonds or contracts of insurance furnished by the insurer selected by the bidder to underwrite such bonds, or contracts of insurance.

(4) Any provisions in any invitation for bids, or in any of the contract documents, in conflict with this section are declared to be contrary to the public policy of this state.

(5) A violation of this section shall be subject to the penalties provided by RCW 48.01.080.

(6) This section shall not apply to public construction projects, when the actual or estimated aggregate value of the project, exclusive of insurance and surety costs, exceeds two hundred million dollars. For purposes of applying the two hundred million dollar threshold set forth in this subsection, the term "public construction project" means a project that has a public owner and has phases, segments, or component parts relating to a common geographic site or public transportation system, but does not include the aggregation of unrelated construction projects.

(7) The exclusions specified in subsection (6) of this section do not apply to surety bonds.

Sec. 43. RCW 48.31.111 and 2003 c 248 s 11 are each amended to read as follows:

(1) A delinquency proceeding may not be commenced under this chapter by anyone other than the commissioner of this state, and no court has jurisdiction to entertain a proceeding commenced by another person.

(2) No court of this state has jurisdiction to entertain a complaint praying for the dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of an insurer, or praying for an injunction or restraining order or other relief preliminary to, incidental to, or relating to the proceedings, other than in accordance with this chapter.

(3) In addition to other grounds for jurisdiction provided by the law of this state, a court of this state having jurisdiction of the subject matter has jurisdiction over a person served under the rules of civil procedure or other applicable provisions of law in an action brought by the receiver of a domestic insurer or an alien insurer domiciled in this state:

(a) If the person served is an ((~~agent, broker~~)) insurance producer, title insurance agent, or other person who has written policies of insurance for or has acted in any manner on behalf of an insurer against which a delinquency proceeding has been instituted, in an action resulting from or incident to such a relationship with the insurer;

(b) If the person served is a reinsurer who has entered into a contract of reinsurance with an insurer against which a delinquency proceeding has been instituted, or is an ((~~agent or broker~~)) insurance producer of or for the reinsurer, in an action on or incident to the reinsurance contract;

(c) If the person served is or has been an officer, director, manager, trustee, organizer, promoter, or other person in a position of comparable authority or influence over an insurer against which a delinquency proceeding has been instituted, in an action resulting from or incident to such a relationship with the insurer;

(d) If the person served is or was at the time of the institution of the delinquency proceeding against the insurer holding assets in which the receiver claims an interest on behalf of the insurer, in an action concerning the assets; or

(e) If the person served is obligated to the insurer in any way, in an action on or incident to the obligation.

(4) If the court on motion of a party finds that an action should as a matter of substantial justice be tried in a forum outside this state, the court may enter an appropriate order to stay further proceedings on the action in this state.

Sec. 44. RCW 48.31.141 and 1993 c 462 s 65 are each amended to read as follows:

(1)(a) An ((~~agent, broker~~)) insurance producer, title insurance agent, premium finance company, or any other person, other than the policy owner or the insured, responsible for the payment of a premium is obligated to pay any unpaid premium for the full policy term due the insurer at the time of the declaration of insolvency, whether earned or unearned, as shown on the records of the insurer. The liquidator also has the right to recover from the person a part of an unearned premium that represents commission of the person. Credits or setoffs or both may not be allowed to an ((~~agent, broker~~)) insurance producer, title insurance agent, or premium finance company for amounts advanced to the insurer by the ((~~agent,~~)) insurance producer, title insurance agent, surplus line broker, or premium finance company on behalf of, but in the absence of a payment by, the policy owner or the insured.

(b) Notwithstanding (a) of this subsection, the ((~~agent, broker~~)) insurance producer, title insurance agent, premium finance company, or other person is not liable for uncollected unearned premium of the insurer. A presumption exists that the premium as shown on the books of the insurer is collected, and the burden is upon the ((~~agent, broker~~)) insurance producer, title insurance agent, premium finance company, or other person to demonstrate by a preponderance of the evidence that the unearned premium was not actually collected. For purposes of this subsection, "unearned premium" means that portion of an insurance premium covering the unexpired term of the policy or the unexpired period of the policy period.

(c) An insured is obligated to pay any unpaid earned premium due the insurer at the time of the declaration of insolvency, as shown on the records of the insurer.

(2) Upon a violation of this section, the commissioner may pursue either one or both of the following courses of action:

(a) Suspend or revoke or refuse to renew the licenses of the offending party or parties;

(b) Impose a penalty of not more than one thousand dollars for each violation.

(3) Before the commissioner may take an action as set forth in subsection (2) of this section, he or she shall give written notice to the person accused of violating the law, stating specifically the nature of the alleged violation, and fixing a time and place, at least ten days thereafter, when a hearing on the matter shall be held. After the hearing, or upon failure of the accused to appear at the hearing, the commissioner, if he or she finds a violation, shall impose those penalties under subsection (2) of this section that he or she deems advisable.

(4) When the commissioner takes action in any or all of the ways set out in subsection (2) of this section, the party aggrieved has the rights granted under the Administrative Procedure Act, chapter 34.05 RCW.

Sec. 45. RCW 48.36A.310 and 1996 c 236 s 3 are each amended to read as follows:

(1) The commissioner may refuse, suspend, or revoke a fraternal benefit society's license, if the society:

(a) Has exceeded its powers;

(b) Has failed to comply with any of the provisions of this chapter;

(c) Is not fulfilling its contracts in good faith;

(d) Is conducting its business fraudulently;

(e) Has a membership of less than four hundred after an existence of one year or more;

(f) Is found by the commissioner to be in such a condition that its further transaction of insurance in this state would be hazardous to certificate holders and the people in this state;

(g) Refuses to remove or discharge a trustee, director, or officer who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude;

(h) Refuses to be examined, or if its trustees, directors, officers, employees, or representatives refuse to submit to examination or to produce its accounts, records, and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination;

(i) Fails to pay any final judgment rendered against it in this state upon any certificate, or undertaking issued by it, within thirty days after the judgment became final or within thirty days after time for taking an appeal has expired, or within thirty days after dismissal of an appeal before final determination, whichever date is the later;

(j) Is found by the commissioner, after investigation or upon receipt of reliable information, to be managed by persons, whether by its trustees, directors, officers, or by any other means, who are incompetent or untrustworthy or so lacking in fraternal benefit society managerial experience as to make a proposed operation hazardous to its members; or that there is good reason to believe it is affiliated directly or indirectly through ownership, control, or business relations, with any person or persons whose business operations are or have been found to be in violation of any law or rule, to the detriment of the members of the society or of the public, by bad faith or by manipulation of the assets, or of accounts, or of reinsurance of the society; or

(k) Does business through ((~~agents~~)) insurance producers or other representatives in this state or in any other state who are not properly licensed under applicable laws and rules.

(2) Nothing in this section shall prevent a society from continuing, in good faith, all contracts made in this state during the time the society was legally authorized to transact business herein.

Sec. 46. RCW 48.36A.330 and 1987 c 366 s 33 are each amended to read as follows:

(1) ((~~Agents~~)) Insurance producers of societies shall be licensed in accordance with the applicable provisions of chapter 48.17 RCW regulating the licensing, revocation, suspension, or termination of licenses of resident and nonresident ((~~agents. Persons who are so authorized by a fraternal benefit society for a period of one year immediately prior to June 13, 1963, shall not be required to take and pass an examination as required by RCW 48.17.110~~)) insurance producers.

(2) The following individuals shall not be deemed an ((~~agent~~)) insurance producer of a fraternal benefit society within the provisions of subsection (1) of this section:

(a) Any regular salaried officer or employee of a licensed society who devotes substantially all of their services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) Any ((~~agent~~)) insurance producer or representative of a society who devotes, or intends to devote, less than fifty percent of their time to the solicitation and procurement of insurance contracts for such society: PROVIDED, That any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars shall be conclusively presumed to be devoting, or intending to devote, fifty percent of the person's time to the solicitation or procurement of insurance contracts for such society.

Sec. 47. RCW 48.41.060 and 2005 c 7 s 2 are each amended to read as follows:

(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies, health care service contractors, and health maintenance organizations, licensed or registered to offer or provide the kinds of health coverage defined under this title. In addition thereto, the board shall:

(a) Designate or establish the standard health questionnaire to be used under RCW 48.41.100 and 48.43.018, including the form and content of the standard health questionnaire and the method of its application. The questionnaire must provide for an objective evaluation of an individual's health status by assigning a discreet measure, such as a system of point scoring to each individual. The questionnaire must not contain any questions related to pregnancy, and pregnancy shall not be a basis for coverage by the pool. The questionnaire shall be designed such that it is reasonably expected to identify the eight percent of persons who are the most costly to treat who are under individual coverage in health benefit plans, as defined in RCW 48.43.005, in Washington state or are covered by the pool, if applied to all such persons;

(b) Obtain from a member of the American academy of actuaries, who is independent of the board, a certification that the standard health questionnaire meets the requirements of (a) of this subsection;

(c) Approve the standard health questionnaire and any modifications needed to comply with this chapter. The standard health questionnaire shall be submitted to an actuary for certification, modified as necessary, and approved at least every eighteen months. The designation and approval of the standard health questionnaire by the board shall not be subject to review and approval by the commissioner. The standard health questionnaire or any modification thereto shall not be used until ninety days after public notice of the approval of the questionnaire or any modification thereto, except that the initial standard health questionnaire approved for use by the board after March 23, 2000, may be used immediately following public notice of such approval;

(d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, claim reserve formulas and any other actuarial functions appropriate

to the operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the risk experience, and expenses of providing the coverage. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices consistent with Washington state individual plan rating requirements under RCW 48.44.022 and 48.46.064;

(e)(i) Assess members of the pool in accordance with the provisions of this chapter, and make advance interim assessments as may be reasonable and necessary for the organizational or interim operating expenses. Any interim assessments will be credited as offsets against any regular assessments due following the close of the year.

(ii) Self-funded multiple employer welfare arrangements are subject to assessment under this subsection only in the event that assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the commissioner shall initially request an advisory opinion from the United States department of labor or obtain a declaratory ruling from a federal court on the legality of imposing assessments on these arrangements before imposing the assessment. Once the legality of the assessments has been determined, the multiple employer welfare arrangement certified by the insurance commissioner must begin payment of these assessments.

(iii) If there has not been a final determination of the legality of these assessments, then beginning on the earlier of (A) the date the fourth multiple employer welfare arrangement has been certified by the insurance commissioner, or (B) April 1, 2006, the arrangement shall deposit the assessments imposed by this subsection into an interest bearing escrow account maintained by the arrangement. Upon a final determination that the assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing escrow account shall be transferred to the board;

(f) Issue policies of health coverage in accordance with the requirements of this chapter;

(g) Establish procedures for the administration of the premium discount provided under RCW 48.41.200(3)(a)(iii);

(h) Contract with the Washington state health care authority for the administration of the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii);

(i) Set a reasonable fee to be paid to an insurance ((~~agent~~)) producer licensed in Washington state for submitting an acceptable application for enrollment in the pool; and

(j) Provide certification to the commissioner when assessments will exceed the threshold level established in RCW 48.41.037.

(2) In addition thereto, the board may:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter including the authority, with the approval of the commissioner, to enter into contracts with similar pools of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(c) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the pool, policy, and other contract design, and any other function within the authority of the pool; and

(d) Conduct periodic audits to assure the general accuracy of the financial data submitted to the pool, and the board shall cause the pool to have an annual audit of its operations by an independent certified public accountant.

(3) Nothing in this section shall be construed to require or authorize the adoption of rules under chapter 34.05 RCW.

Sec. 48. RCW 48.43.105 and 1996 c 312 s 5 are each amended to read as follows:

(1) A public or private entity who exercises due diligence in preparing a document of any kind that compares health carriers of any kind is immune from civil liability from claims based on the document and the contents of the document.

(2)(a) There is absolute immunity to civil liability from claims based on such a comparison document and its contents if the information was provided by the carrier, was substantially accurately presented, and contained the effective date of the information that the carrier supplied, if any.

(b) Where due diligence efforts to obtain accurate information have been taken, there is immunity from claims based on such a comparison document and its contents if the publisher of the comparison document asked for such information from the carrier, was refused, and relied on any usually reliable source for the information including, but not limited to, carrier enrollees, customers, ((~~agents, brokers~~)) insurance producers, or providers. The carrier enrollees, customers, ((~~agents, brokers~~)) insurance producers, or providers are likewise immune from civil liability on claims based on information they provided if they believed the information to be accurate and had exercised due diligence in their efforts to confirm the accuracy of the information provided.

(3) The immunity from liability contained in this section applies only if the comparison document contains the following in a conspicuous place and in easy to read typeface:

> This comparison is based on information believed to be reliable by its publisher, but the accuracy of the information cannot be guaranteed. Caution is suggested to all readers who are encouraged to confirm data of importance to the reader before any purchasing or other decisions are made.

(4) The insurance commissioner is prohibited from adopting rules regarding this section.

Sec. 49. RCW 48.43.335 and 1998 c 241 s 8 are each amended to read as follows:

(1) All RBC reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and RBC plans, including the results or report of any examination or analysis of a carrier and any corrective order issued by the commissioner, with respect to any domestic carrier

or foreign carrier that are filed with the commissioner constitute information that might be damaging to the carrier if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information shall not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner.

(2) The comparison of a carrier's total adjusted capital to any of its RBC levels is a regulatory tool that may indicate the need for possible corrective action with respect to the carrier, and is not a means to rank carriers generally. Therefore, except as otherwise required under the provisions of RCW 48.43.300 through 48.43.370, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the RBC levels of any carrier, or of any component derived in the calculation, by any carrier, ((~~agent, broker~~)) insurance producer, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited. However, if any materially false statement with respect to the comparison regarding a carrier's total adjusted capital to its RBC levels (or any of them) or an inappropriate comparison of any other amount to the carrier's RBC levels is published in any written publication and the carrier is able to demonstrate to the commissioner with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the carrier may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

(3) The RBC instructions, RBC reports, adjusted RBC reports, RBC plans, and revised RBC plans are intended solely for use by the commissioner in monitoring the solvency of carriers and the need for possible corrective action with respect to carriers and shall not be used by the commissioner for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance that a carrier or any affiliate is authorized to write.

Sec. 50. RCW 48.44.011 and 1983 c 202 s 1 are each amended to read as follows:

(1) ((~~Agent~~)) Insurance producer, as used in this chapter, means any person appointed or authorized by a health care service contractor to solicit applications for health care service contracts on its behalf.

(2) No person shall act as or hold himself or herself out to be an ((~~agent~~)) appointed insurance producer of a health care service contractor unless licensed as a disability insurance ((~~agent~~)) producer by this state and appointed by the health care service contractor on whose behalf solicitations are to be made.

(3) Applications, appointments, and qualifications for licenses, the renewal thereof, the fees and issuance of a license, and the renewal thereof shall be in accordance with the provisions of chapter 48.17 RCW that are applicable to a disability insurance ((~~agent~~)) producer.

(4) ((~~A person holding a valid license in this state as a health care service contractor agent on July 24, 1983, is not required to requalify by an examination for the renewal of the license.~~

~~(5)~~)) The commissioner may revoke, suspend, or refuse to issue or renew any ((~~agent's~~)) insurance producer's license, or levy a fine upon the licensee, in accordance with those provisions of chapter 48.17 RCW that are applicable to a disability insurance ((~~agent~~)) producer.

Sec. 51. RCW 48.44.020 and 2000 c 79 s 28 are each amended to read as follows:

(1) Any health care service contractor may enter into contracts with or for the benefit of persons or groups of persons which require prepayment for health care services by or for such persons in consideration of such health care service contractor providing one or more health care services to such persons and such activity shall not be subject to the laws relating to insurance if the health care services are rendered by the health care service contractor or by a participating provider.

(2) The commissioner may on examination, subject to the right of the health care service contractor to demand and receive a hearing under chapters 48.04 and 34.05 RCW, disapprove any individual or group contract form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(b) If it has any title, heading, or other indication of its provisions which is misleading; or

(c) If purchase of health care services thereunder is being solicited by deceptive advertising; or

(d) If it contains unreasonable restrictions on the treatment of patients; or

(e) If it violates any provision of this chapter; or

(f) If it fails to conform to minimum provisions or standards required by regulation made by the commissioner pursuant to chapter 34.05 RCW; or

(g) If any contract for health care services with any state agency, division, subdivision, board, or commission or with any political subdivision, municipal corporation, or quasi-municipal corporation fails to comply with state law.

(3) In addition to the grounds listed in subsection (2) of this section, the commissioner may disapprove any group contract if the benefits provided therein are unreasonable in relation to the amount charged for the contract.

(4)(a) Every contract between a health care service contractor and a participating provider of health care services shall be in writing and shall state that in the event the health care service contractor fails to pay for health care services as provided in the contract, the enrolled participant shall not be liable to the provider for sums owed by the health care service contractor. Every such contract shall provide that this requirement shall survive termination of the contract.

(b) No participating provider, ((~~agent,~~)) insurance producer, trustee, or assignee may maintain any action against an enrolled participant to collect sums owed by the health care service contractor.

Sec. 52. RCW 48.44.164 and 1969 c 115 s 10 are each amended to read as follows:

Upon the suspension, revocation or refusal of a health care service contractor's registration, the commissioner shall give notice thereof to such contractor and shall likewise suspend, revoke, or refuse the authority of its ((~~agents~~)) appointed insurance producers to represent it in this state and give notice thereof to the ((~~agents~~)) appointed insurance producers.

Sec. 53. RCW 48.44.230 and 1983 1st ex.s. c 32 s 11 are each amended to read as follows:

Every subscriber of an individual health care service plan contract issued after September 1, 1973, may return the contract to the health care service contractor or the ((~~agent~~)) insurance producer through whom it was purchased within ten days of its delivery to the subscriber if, after examination of the contract, he or she is not satisfied with it for any reason, and the health care service contractor shall refund promptly any fee paid for such contract. Upon such return of the contract it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued. Notice of the substance of this section shall be printed on the face of each such contract or be attached thereto. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy to the insurer or ((~~agent~~)) insurance producer.

Sec. 54. RCW 48.46.023 and 1983 c 202 s 8 are each amended to read as follows:

(1) ((~~Agent~~)) Insurance producer, as used in this chapter, means any person appointed or authorized by a health maintenance organization to solicit applications for health care service agreements on its behalf.

(2) No person shall act as or hold himself or herself out to be an ((~~agent~~)) appointed insurance producer of a health maintenance organization unless licensed as a disability insurance ((~~agent~~)) producer by this state and appointed or authorized by the health maintenance organization on whose behalf solicitations are to be made.

(3) Applications, appointments, and qualifications for licenses, the renewal thereof, the fees and issuance of a license, and the renewal thereof shall be in accordance with the provisions of chapter 48.17 RCW that are applicable to a disability insurance ((~~agent~~)) producer.

(4) ((~~A person holding a valid license in this state as a health maintenance organization agent on July 24, 1983, is not required to requalify by an examination for the renewal of the license.~~

~~(5)~~)) The commissioner may revoke, suspend, or refuse to issue or renew any ((~~agent's~~)) insurance producer's license, or levy a fine upon the licensee, in accordance with those provisions of chapter 48.17 RCW that are applicable to a disability insurance ((~~agent~~)) producer.

Sec. 55. RCW 48.46.170 and 2003 c 248 s 17 are each amended to read as follows:

(1) Solicitation of enrolled participants by a health maintenance organization granted a certificate of registration, or its ((~~agents~~)) appointed insurance producers or representatives, does not violate any provision of law relating to solicitation or advertising by health professionals.

(2) Any health maintenance organization authorized under this chapter is not violating any law prohibiting the practice by unlicensed persons of podiatric medicine and surgery, chiropractic, dental hygiene, opticianry, dentistry, optometry, osteopathic medicine and surgery, pharmacy, medicine and surgery, physical therapy, nursing, or psychology. This subsection does not expand a health professional's scope of practice or allow employees of a health maintenance organization to practice as a health professional unless licensed.

(3) This chapter does not alter any statutory obligation, or rule adopted thereunder, in chapter 70.38 RCW.

(4) Any health maintenance organization receiving a certificate of registration pursuant to this chapter is exempt from chapter 48.05 RCW.

Sec. 56. RCW 48.46.243 and 1990 c 119 s 7 are each amended to read as follows:

(1) Subject to subsection (2) of this section, every contract between a health maintenance organization and its participating providers of health care services shall be in writing and shall set forth that in the event the health maintenance organization fails to pay for health care services as set forth in the agreement, the enrolled participant shall not be liable to the provider for any sums owed by the health maintenance organization. Every such contract shall provide that this requirement shall survive termination of the contract.

(2) The provisions of subsection (1) of this section shall not apply to emergency care from a provider who is not a participating provider, to out-of-area services or, in exceptional situations approved in advance by the commissioner, if the health maintenance organization is unable to negotiate reasonable and cost-effective participating provider contracts.

(3)(a) Each participating provider contract form shall be filed with the commissioner fifteen days before it is used.

(b) Any contract form not affirmatively disapproved within fifteen days of filing shall be deemed approved, except that the commissioner may extend the approval period an additional fifteen days upon giving notice before the expiration of the initial fifteen-day period. The commissioner may approve such a contract form for immediate use at any time. Approval may be subsequently withdrawn for cause.

(c) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and 34.05 RCW, the commissioner may disapprove such a contract form if it is in any respect in violation of this chapter or if it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.05 RCW.

(4) No participating provider, or ((~~agent~~)) insurance producer, trustee, or assignee thereof, may maintain an action against an enrolled participant to collect sums owed by the health maintenance organization.

Sec. 57. RCW 48.46.260 and 1983 c 202 s 13 are each amended to read as follows:

Every subscriber of an individual health maintenance agreement may return the agreement to the health maintenance organization or the ((~~agent~~)) insurance producer through whom it was purchased within ten days of its delivery to the subscriber if, after examination of the agreement, the subscriber is not satisfied with it for any reason. The health maintenance organization shall refund

promptly any fee paid for the agreement. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy to the health maintenance organization or ((~~agent~~)) insurance producer. Upon such return of the agreement, it shall be void from the beginning and the parties shall be in the same position as if no agreement had been issued. Notice of the provisions of this section shall be printed on the face of each such agreement or be attached thereto.

Sec. 58. RCW 48.46.340 and 1983 c 106 s 12 are each amended to read as follows:

Every subscriber of an individual health maintenance agreement may return the agreement to the health maintenance organization or the ((~~agent~~)) insurance producer through whom it was purchased within ten days of its delivery to the subscriber if, after examination of the agreement, the subscriber is not satisfied with it for any reason. The health maintenance organization shall refund promptly any fee paid for the agreement. Upon such return of the agreement, it shall be void from the beginning and the parties shall be in the same position as if no agreement had been issued. Notice of the substance of this section shall be printed on the face of each such agreement or be attached thereto.

Sec. 59. RCW 48.50.070 and 2006 c 284 s 14 are each amended to read as follows:

Any licensed insurance producer, title insurance agent, ((~~any licensed insurance broker, or any~~)) or insurer or person acting in the insurer's behalf, health maintenance organization or person acting in behalf of the health maintenance organization, health care service contractor or person acting in behalf of the health care service contractor, or any authorized agency which releases information, whether oral or written, to the commissioner, the national insurance crime bureau, the national association of insurance commissioners, other law enforcement agent or agency, or another insurer under RCW 48.50.030, 48.50.040, 48.50.050, 48.50.055, or 48.135.050 is immune from liability in any civil or criminal action, suit, or prosecution arising from the release of the information, unless actual malice on the part of the ((~~agent, broker~~)) insurance producer, title insurance agent, insurer, health care maintenance organization, health care service contractor, or authorized agency against the insured is shown.

Sec. 60. RCW 48.56.020 and 1969 ex.s. c 190 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Insurance premium finance company" means a person engaged in the business of entering into insurance premium finance agreements.

(2) "Premium finance agreement" means an agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance ((~~agent or broker~~)) producer in payment of premiums on an insurance contract together with a service charge as authorized and limited by this chapter and as security therefor the insurance premium finance company receives an assignment of the unearned premium.

(3) "Licensee" means a premium finance company holding a license issued by the insurance commissioner under this chapter.

Sec. 61. RCW 48.56.080 and 1975-'76 2nd ex.s. c 119 s 6 are each amended to read as follows:

(1) A premium finance agreement shall((—)):

(a) Be dated, signed by or on behalf of the insured, and the printed portion thereof shall be in at least eight point type;

(b) Contain the name and place of business of the insurance ((~~agent~~)) producer negotiating the related insurance contract, the name and residence or the place of business of the premium finance company to which payments are to be made, a description of the insurance contracts involved and the amount of the premium therefor; and

(c) Set forth the following items where applicable((—)):

(i) The total amount of the premiums((~~,~~));

(ii) The amount of the down payment((~~,~~));

(iii) The principal balance (the difference between items (i) and (ii))((~~,~~));

(iv) The amount of the service charge((~~,~~));

(v) The balance payable by the insured (sum of items (iii) and (iv))((~~,~~)); and

(vi) The number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(2) The items set out in ((~~paragraph (c) of~~)) subsection (1)(c) of this section need not be stated in the sequence or order in which they appear in ((~~such paragraph (c)~~)) that subsection, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(3) The information required by subsection (1) of this section shall only be required in the initial agreement where the premium finance company and the insured enter into an open end credit transaction, which is defined as follows: A plan prescribing the terms of credit transactions which may be made thereunder from time to time and under the terms of which a finance charge may be computed on the outstanding unpaid balance from time to time thereunder.

(4) A copy of the premium finance agreement shall be given to the insured at the time or within ten days of its execution, except where the application has been signed by the insured and all the finance charges are one dollar or less per payment. In addition, the premium finance company shall deliver or mail a copy of the premium finance agreement or notice identifying policy, insured, and ((~~producing agent~~)) insurance producer to each insurer that has premiums involved in the transaction, within thirty days of the execution of the premium finance agreement.

(5) It shall be illegal for a premium finance company to offset funds of an ((~~agent~~)) insurance producer with funds belonging to an insured. Premiums advanced by a premium finance company are funds belonging to the insured and shall be held in a fiduciary relationship.

Sec. 62. RCW 48.62.121 and 1993 c 458 s 1 are each amended to read as follows:

(1) No employee or official of a local government entity may directly or indirectly receive anything of value for services rendered in connection with the operation and management of a self-insurance program other than the salary and benefits provided by his or her employer or the reimbursement of expenses reasonably incurred in furtherance of the operation or management of the program. No employee or official of a local government entity may accept or solicit anything of value for personal benefit or for the benefit of others under

circumstances in which it can be reasonably inferred that the employee's or official's independence of judgment is impaired with respect to the management and operation of the program.

(2)(a) No local government entity may participate in a joint self-insurance program in which local government entities do not retain complete governing control. This prohibition does not apply to:

(i) Local government contribution to a self-insured employee health and welfare benefits plan otherwise authorized and governed by state statute;

(ii) Local government participation in a multistate joint program where control is shared with local government entities from other states; or

(iii) Local government contribution to a self-insured employee health and welfare benefit trust in which the local government shares governing control with their employees.

(b) If a local government self-insured health and welfare benefit program, established by the local government as a trust, shares governing control of the trust with its employees:

(i) The local government must maintain at least a fifty percent voting control of the trust;

(ii) No more than one voting, nonemployee, union representative selected by employees may serve as a trustee; and

(iii) The trust agreement must contain provisions for resolution of any deadlock in the administration of the trust.

(3) Moneys made available and moneys expended by school districts and educational service districts for self-insurance under this chapter are subject to such rules of the superintendent of public instruction as the superintendent may adopt governing budgeting and accounting. However, the superintendent shall ensure that the rules are consistent with those adopted by the state risk manager for the management and operation of self-insurance programs.

(4) RCW 48.30.140, 48.30.150, 48.30.155, and 48.30.157 apply to the use of ((~~agents and brokers~~)) insurance producers by local government self-insurance programs.

(5) Every individual and joint local government self-insured health and welfare benefits program that provides comprehensive coverage for health care services shall include mandated benefits that the state health care authority is required to provide under RCW 41.05.170 and 41.05.180. The state risk manager may adopt rules identifying the mandated benefits.

(6) An employee health and welfare benefit program established as a trust shall contain a provision that trust funds be expended only for purposes of the trust consistent with statutes and rules governing the local government or governments creating the trust.

Sec. 63. RCW 48.62.151 and 1991 sp.s. c 30 s 15 are each amended to read as follows:

A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, from fees assessed under chapter 48.02 RCW, from chapters 48.32 and 48.32A RCW, from business and occupations taxes imposed under chapter 82.04 RCW, and from any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to and no exemption is provided for insurance companies issuing policies to cover program risks, nor does it apply to or provide an exemption for third-

party administrators or ((~~brokers~~)) insurance producers serving the self-insurance program.

Sec. 64. RCW 48.66.055 and 2005 c 41 s 5 are each amended to read as follows:

(1) Under this section, persons eligible for a medicare supplement policy or certificate are those individuals described in subsection (3) of this section who, subject to subsection (3)(b)(ii) of this section, apply to enroll under the policy not later than sixty-three days after the date of the termination of enrollment described in subsection (3) of this section, and who submit evidence of the date of termination or disenrollment, or medicare part D enrollment, with the application for a medicare supplement policy.

(2) With respect to eligible persons, an issuer may not deny or condition the issuance or effectiveness of a medicare supplement policy described in subsection (4) of this section that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a medicare supplement policy.

(3) "Eligible persons" means an individual that meets the requirements of (a), (b), (c), (d), (e), or (f) of this subsection, as follows:

(a) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual;

(b)(i) The individual is enrolled with a medicare advantage organization under a medicare advantage plan under part C of medicare, and any of the following circumstances apply, or the individual is sixty-five years of age or older and is enrolled with a program of all inclusive care for the elderly (PACE) provider under section 1894 of the social security act, and there are circumstances similar to those described in this subsection (3)(b) that would permit discontinuance of the individual's enrollment with the provider if the individual were enrolled in a medicare advantage plan:

(A) The certification of the organization or plan has been terminated;

(B) The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

(C) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary of the United States department of health and human services, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal social security act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856 of the federal social security act), or the plan is terminated for all individuals within a residence area;

(D) The individual demonstrates, in accordance with guidelines established by the secretary of the United States department of health and human services, that:

(I) The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis

medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

(II) The organization, an ((~~agent~~)) insurance producer, or other entity acting on the organization's behalf materially misrepresented the plan's provisions in marketing the plan to the individual; or

(E) The individual meets other exceptional conditions as the secretary of the United States department of health and human services may provide.

(ii)(A) An individual described in (b)(i) of this subsection may elect to apply (a) of this subsection by substituting, for the date of termination of enrollment, the date on which the individual was notified by the medicare advantage organization of the impending termination or discontinuance of the medicare advantage plan it offers in the area in which the individual resides, but only if the individual disenrolls from the plan as a result of such notification.

(B) In the case of an individual making the election under (b)(ii)(A) of this subsection, the issuer involved shall accept the application of the individual submitted before the date of termination of enrollment, but the coverage under subsection (1) of this section is only effective upon termination of coverage under the medicare advantage plan involved;

(c)(i) The individual is enrolled with:

(A) An eligible organization under a contract under section 1876 (medicare risk or cost);

(B) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

(C) An organization under an agreement under section 1833(a)(1)(A) (health care prepayment plan); or

(D) An organization under a medicare select policy; and

(ii) The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under (b)(i) of this subsection;

(d) The individual is enrolled under a medicare supplement policy and the enrollment ceases because:

(i)(A) Of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

(B) Of other involuntary termination of coverage or enrollment under the policy;

(ii) The issuer of the policy substantially violated a material provision of the policy; or

(iii) The issuer, an ((~~agent~~)) insurance producer, or other entity acting on the issuer's behalf materially misrepresented the policy's provisions in marketing the policy to the individual;

(e)(i) The individual was enrolled under a medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any medicare advantage organization under a medicare advantage plan under part C of medicare, any eligible organization under a contract under section 1876 (medicare risk or cost), any similar organization operating under demonstration project authority, any PACE program under section 1894 of the social security act or a medicare select policy; and

(ii) The subsequent enrollment under (e)(i) of this subsection is terminated by the enrollee during any period within the first twelve months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e) of the federal social security act);

(f) The individual, upon first becoming eligible for benefits under part A of medicare at age sixty-five, enrolls in a medicare advantage plan under part C of medicare, or in a PACE program under section 1894, and disenrolls from the plan or program by not later than twelve months after the effective date of enrollment; or

(g) The individual enrolls in a medicare part D plan during the initial enrollment period and, at the time of enrollment in part D, was enrolled under a medicare supplement policy that covers outpatient prescription drugs, and the individual terminates enrollment in the medicare supplement policy and submits evidence of enrollment in medicare part D along with the application for a policy described in subsection (4)(d) of this section.

(4) An eligible person under subsection (3) of this section is entitled to a medicare supplement policy as follows:

(a) A person eligible under subsection (3)(a), (b), (c), and (d) of this section is entitled to a medicare supplement policy that has a benefit package classified as plan A through F (including F with a high deductible), K, or L, offered by any issuer;

(b)(i) Subject to (b)(ii) of this subsection, a person eligible under subsection (3)(e) of this section is entitled to the same medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in (a) of this subsection;

(ii) After December 31, 2005, if the individual was most recently enrolled in a medicare supplement policy with an outpatient prescription drug benefit, a medicare supplement policy described in this subsection (4)(b)(ii) is:

(A) The policy available from the same issuer but modified to remove outpatient prescription drug coverage; or

(B) At the election of the policyholder, an A, B, C, F (including F with a high deductible), K, or L policy that is offered by any issuer;

(c) A person eligible under subsection (3)(f) of this section is entitled to any medicare supplement policy offered by any issuer; and

(d) A person eligible under subsection (3)(g) of this section is entitled to a medicare supplement policy that has a benefit package classified as plan A, B, C, F (including F with a high deductible), K, or L and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's medicare supplement policy with outpatient prescription drug coverage.

(5)(a) At the time of an event described in subsection (3) of this section, and because of which an individual loses coverage or benefits due to the termination of a contract, agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, must notify the individual of his or her rights under this section, and of the obligations of issuers of medicare supplement policies under subsection (1) of this section. The notice must be communicated contemporaneously with the notification of termination.

(b) At the time of an event described in subsection (3) of this section, and because of which an individual ceases enrollment under a contract, agreement,

policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, must notify the individual of his or her rights under this section, and of the obligations of issuers of medicare supplement policies under subsection (1) of this section. The notice must be communicated within ten working days of the issuer receiving notification of disenrollment.

(6) Guaranteed issue time periods:

(a) In the case of an individual described in subsection (3)(a) of this section, the guaranteed issue period begins on the later of: (i) The date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of a termination or cessation), or (ii) the date that the applicable coverage terminates or ceases, and ends sixty-three days thereafter;

(b) In the case of an individual described in subsection (3)(b), (c), (e), or (f) of this section whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three days after the date the applicable coverage is terminated;

(c) In the case of an individual described in subsection (3)(d)(i) of this section, the guaranteed issue period begins on the earlier of: (i) The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any, and (ii) the date that the applicable coverage is terminated, and ends on the date that is sixty-three days after the date the coverage is terminated;

(d) In the case of an individual described in subsection (3)(b), (d)(ii) and (iii), (e), or (f) of this section, who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty days before the effective date of the disenrollment and ends on the date that is sixty-three days after the effective date;

(e) In the case of an individual described in subsection (3)(g) of this section, the guaranteed issue period begins on the date the individual receives notice pursuant to section 1882(v)(2)(B) of the federal social security act from the medicare supplement issuer during the sixty-day period immediately preceding the initial part D enrollment period and ends on the date that is sixty-three days after the effective date of the individual's coverage under medicare part D; and

(f) In the case of an individual described in subsection (3) of this section but not described in the preceding provisions of this subsection, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three days after the effective date.

(7) In the case of an individual described in subsection (3)(e) of this section whose enrollment with an organization or provider described in subsection (3)(e)(i) of this section is involuntarily terminated within the first twelve months of enrollment, and who, without an intervening enrollment, enrolls with another organization or provider, the subsequent enrollment is an initial enrollment as described in subsection (3)(e) of this section.

(8) In the case of an individual described in subsection (3)(f) of this section whose enrollment with a plan or in a program described in subsection (3)(f) of this section is involuntarily terminated within the first twelve months of enrollment, and who, without an intervening enrollment, enrolls in another plan

or program, the subsequent enrollment is an initial enrollment as described in subsection (3)(f) of this section.

(9) For purposes of subsection (3)(e) and (f) of this section, an enrollment of an individual with an organization or provider described in subsection (3)(e)(i) of this section, or with a plan or in a program described in subsection (3)(f) of this section is not an initial enrollment under this subsection after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan, or program.

Sec. 65. RCW 48.66.120 and 1983 1st ex.s. c 32 s 12 are each amended to read as follows:

(1) Every individual medicare supplement insurance policy issued after January 1, 1982, and every certificate issued pursuant to a group medicare supplement policy after January 1, 1982, shall have prominently displayed on the first page of the policy form or certificate a notice stating in substance that the person to whom the policy or certificate is issued shall be permitted to return the policy or certificate within thirty days of its delivery to the purchaser and to have the premium refunded if, after examination of the policy or certificate, the purchaser is not satisfied with it for any reason. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy to the insurer or ((~~agent~~)) insurance producer. If a policyholder or purchaser, pursuant to such notice, returns the policy or certificate to the insurer at its home or branch office or to the ((~~agent~~)) insurance producer through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy or certificate had been issued.

(2) No later than January 1, 2010, or when the insurer has used all of its existing paper individual medicare supplement insurance policy forms which were in its possession on July 1, 2009, whichever is earlier, the notice required by subsection (1) of this section shall use the term insurance producer in place of agent.

Sec. 66. RCW 48.76.090 and 1982 1st ex.s. c 9 s 18 are each amended to read as follows:

This chapter does not apply to any of the following:

(1) Reinsurance;

(2) Group insurance;

(3) A pure endowment;

(4) An annuity or reversionary annuity contract;

(5) A term policy of a uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;

(6) A term policy of a decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in RCW 48.76.050, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years

or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;

(7) A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in RCW 48.76.030 through 48.76.050, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year; nor

(8) A policy which is delivered outside this state through an ((~~agent~~)) insurance producer or other representative of the company issuing the policy.

For purposes of determining the applicability of this chapter, the age at expiration for a joint term life insurance policy is the age at expiration of the oldest life.

Sec. 67. RCW 48.84.050 and 1986 c 170 s 5 are each amended to read as follows:

(1) The commissioner shall adopt rules requiring disclosure to consumers of the level, type, and amount of benefits provided and the limitations, exclusions, and exceptions contained in a long-term care insurance policy or contract. In adopting such rules the commissioner shall require an understandable disclosure to consumers of any cost for services that the consumer will be responsible for in utilizing benefits covered under the policy or contract.

(2) Each long-term care insurance policy or contract shall include a provision, prominently displayed on the first page of the policy or contract, stating in substance that the person to whom the policy or contract is sold shall be permitted to return the policy or contract within thirty days of its delivery. In the case of policies or contracts solicited and sold by mail, the person may return the policy or contract within sixty days. Once the policy or contract has been returned, the person may have the premium refunded if, after examination of the policy or contract, the person is not satisfied with it for any reason. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy or contract to the insurer or ((~~agent~~)) insurance producer. If a person, pursuant to such notice, returns the policy or contract to the insurer at its branch or home office, or to the ((~~agent~~)) insurance producer from whom the policy or contract was purchased, the policy or contract shall be void from its inception, and the parties shall be in the same position as if no policy or contract had been issued.

(3) No later than January 1, 2010, or when the insurer has used all of its existing paper long-term care insurance policy forms which were in its possession on July 1, 2009, whichever is earlier, the notice required by subsection (2) of this section shall use the term insurance producer in place of agent.

Sec. 68. RCW 48.84.060 and 1986 c 170 s 6 are each amended to read as follows:

No ((~~agent, broker,~~)) insurance producer or other representative of an insurer, contractor, or other organization selling or offering long-term care insurance policies or benefit contracts may: (1) Complete the medical history portion of any form or application for the purchase of such policy or contract; (2) knowingly sell a long-term care policy or contract to any person who is receiving medicaid; or (3) use or engage in any unfair or deceptive act or

practice in the advertising, sale, or marketing of long-term care policies or contracts.

Sec. 69. RCW 48.92.040 and 1993 c 462 s 94 are each amended to read as follows:

Risk retention groups chartered and licensed in states other than this state and seeking to do business as a risk retention group in this state shall comply with the laws of this state as follows:

(1) Before offering insurance in this state, a risk retention group shall submit to the commissioner on a form prescribed by the National Association of Insurance Commissioners:

(a) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and any other information including information on its membership, as the commissioner of this state may require to verify that the risk retention group is qualified under RCW 48.92.020(11);

(b) A copy of its plan of operations or a feasibility study and revisions of the plan or study submitted to its state of domicile: PROVIDED, HOWEVER, That the provision relating to the submission of a plan of operation or a feasibility study shall not apply with respect to any line or classification of liability insurance which: (i) Was defined in the federal Product Liability Risk Retention Act of 1981 before October 27, 1986; and (ii) was offered before that date by any risk retention group which had been chartered and operating for not less than three years before that date;

(c) The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required under RCW 48.92.030(3) at the same time that the revision is submitted to the commissioner of its chartering state; and

(d) A statement of registration which designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

(2) Any risk retention group doing business in this state shall submit to the commissioner:

(a) A copy of the group's financial statement submitted to its state of domicile, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American academy of actuaries or a qualified loss reserve specialist under criteria established by the National Association of Insurance Commissioners;

(b) A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination;

(c) Upon request by the commissioner, a copy of any information or document pertaining to an outside audit performed with respect to the risk retention group; and

(d) Any information as may be required to verify its continuing qualification as a risk retention group under RCW 48.92.020(11).

(3)(a) A risk retention group is liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within this state, and shall report on or before March 1st of each year to the commissioner the direct premiums written for risks resident or located within this state. The risk retention group is subject to taxation, and applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

(b) To the extent ((~~agents or brokers~~)) insurance producers are utilized under RCW 48.92.120 or otherwise, they shall report to the commissioner the premiums for direct business for risks resident or located within this state that the licensees have placed with or on behalf of a risk retention group not chartered in this state.

(c) To the extent ((~~agents or brokers~~)) insurance producers are used under RCW 48.92.120 or otherwise, an ((~~agent or broker~~)) insurance producer shall keep a complete and separate record of all policies procured from each risk retention group. The record is open to examination by the commissioner, as provided in chapter 48.03 RCW. These records must include, for each policy and each kind of insurance provided thereunder, the following:

(i) The limit of liability;

(ii) The time period covered;

(iii) The effective date;

(iv) The name of the risk retention group that issued the policy;

(v) The gross premium charged; and

(vi) The amount of return premiums, if any.

(4) Any risk retention group, its ((~~agents~~)) appointed insurance producers and representatives, shall be subject to any and all unfair claims settlement practices statutes and regulations specifically denominated by the commissioner as unfair claims settlement practices regulations.

(5) Any risk retention group, its ((~~agents~~)) appointed insurance producers and representatives, shall be subject to the provisions of chapter 48.30 RCW pertaining to deceptive, false, or fraudulent acts or practices. However, if the commissioner seeks an injunction regarding such conduct, the injunction must be obtained from a court of competent jurisdiction.

(6) Any risk retention group must submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered has not initiated an examination or does not initiate an examination within sixty days after a request by the commissioner of this state. The examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the National Association of Insurance Commissioners' examiner handbook.

(7) Every application form for insurance from a risk retention group and every policy issued by a risk retention group shall contain in ten-point type on the front page and the declaration page, the following notice:

NOTICE

> This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

(8) The following acts by a risk retention group are hereby prohibited:

(a) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in that group; and

(b) The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.

(9) No risk retention group shall be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of the risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.

(10) The terms of an insurance policy issued by a risk retention group may not provide, or be construed to provide, coverage prohibited generally by statute of this state or declared unlawful by the highest court of this state.

(11) A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under subsection (6) of this section.

Sec. 70. RCW 48.92.090 and 1993 c 462 s 98 are each amended to read as follows:

(1) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed ((~~agent or broker~~)) insurance producer acting pursuant to the surplus lines laws and regulations of that state.

(2) A purchasing group that obtains liability insurance from an insurer not admitted in this state or a risk retention group shall inform each of the members of the group that have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and rules of this state.

(3) No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole; however, coverage may provide for a deductible or self-insured retention applicable to individual members.

(4) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits that are applicable to all purchases of group insurance.

Sec. 71. RCW 48.92.095 and 1993 c 462 s 99 are each amended to read as follows:

Premium taxes and taxes on premiums paid for coverage of risks resident or located in this state by a purchasing group or any members of the purchasing groups must be:

(1) Imposed at the same rate and subject to the same interest, fines, and penalties as those applicable to premium taxes and taxes on premiums paid for similar coverage from authorized insurers, as defined under chapter 48.05 RCW, or unauthorized insurers, as defined and provided for under chapter 48.15 RCW, by other insurers; and

(2) The obligation of the insurer; and if not paid by the insurer, then the obligation of the purchasing group; and if not paid by the purchasing group, then the obligation of the ((~~agent or broker~~)) insurance producer for the purchasing group; and if not paid by the ((~~agent or broker~~)) insurance producer for the purchasing group, then the obligation of each of the purchasing group's members. The liability of each member of the purchasing group is several, not

joint, and is limited to the tax due in relation to the premiums paid by that member.

Sec. 72. RCW 48.92.120 and 2005 c 223 s 31 are each amended to read as follows:

(1) A person may not act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless the person is licensed as an insurance ((~~agent or broker~~)) producer for casualty insurance in accordance with chapter 48.17 RCW and pays the fees designated for the license under RCW 48.14.010.

(2)(a) A person may not act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless the person is licensed as an insurance ((~~agent or broker~~)) producer for casualty insurance in accordance with chapter 48.17 RCW and pays the fees designated for the license under RCW 48.14.010.

(b) A person may not act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in this state for a member of a purchasing group under a purchasing group's policy unless the person is licensed as an insurance ((~~agent or broker~~)) producer for casualty insurance in accordance with chapter 48.17 RCW and pays the fees designated for the license under RCW 48.14.010.

(c) A person may not act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group located in this state unless the person is licensed as a surplus ((~~lines [line]~~)) line broker in accordance with chapter 48.15 RCW and pays the fees designated for the license under RCW 48.14.010.

(3) For purposes of acting as an ((~~agent or broker~~)) insurance producer for a risk retention group or purchasing group under subsections (1) and (2) of this section, the requirement of residence in this state does not apply.

(4) Every person licensed under chapters 48.15 and 48.17 RCW, on business placed with risk retention groups or written through a purchasing group, must inform each prospective insured of the provisions of the notice required under RCW 48.92.040(7) in the case of a risk retention group and RCW 48.92.090(2) in the case of a purchasing group.

Sec. 73. RCW 48.94.005 and 1993 c 462 s 23 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter:

(1) "Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

(2) "Controlling person" means a person, firm, association, or corporation who directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of the reinsurance intermediary.

(3) "Insurer" means insurer as defined in RCW 48.01.050.

(4) "Licensed producer" means an ((~~agent, broker,~~)) insurance producer or reinsurance intermediary licensed under the applicable provisions of this title.

(5) "Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance intermediary-manager as these terms are defined in subsections (6) and (7) of this section.

(6) "Reinsurance intermediary-broker" means a person, other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.

(7) "Reinsurance intermediary-manager" means a person, firm, association, or corporation who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as an ((~~agent~~)) insurance producer for the reinsurer whether known as a reinsurance intermediary-manager, manager, or other similar term. Notwithstanding this subsection, the following persons are not considered a reinsurance intermediary-manager, with respect to such reinsurer, for the purposes of this chapter:

(a) An employee of the reinsurer;

(b) A United States manager of the United States branch of an alien reinsurer;

(c) An underwriting manager who, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the Insurer Holding Company Act, chapter 48.31B RCW, and whose compensation is not based on the volume of premiums written;

(d) The manager of a group, association, pool, or organization of insurers that engages in joint underwriting or joint reinsurance and that are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

(8) "Reinsurer" means a person, firm, association, or corporation licensed in this state under this title as an insurer with the authority to assume reinsurance.

(9) "To be in violation" means that the reinsurance intermediary, insurer, or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with this chapter.

(10) "Qualified United States financial institution" means an institution that:

(a) Is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof;

(b) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the commissioner, or the securities valuation office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

Sec. 74. RCW 48.94.040 and 1993 c 462 s 30 are each amended to read as follows:

(1) A reinsurer may not engage the services of a person, firm, association, or corporation to act as a reinsurance intermediary-manager on its behalf unless the person is licensed as required by RCW 48.94.010(2).

(2) The reinsurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-manager that the reinsurer has had prepared by an independent certified accountant in a form acceptable to the commissioner.

(3) If a reinsurance intermediary-manager establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary-manager. This opinion is in addition to any other required loss reserve certification.

(4) Binding authority for all retrocessional contracts or participation in reinsurance syndicates must rest with an officer of the reinsurer who is not affiliated with the reinsurance intermediary-manager.

(5) Within thirty days of termination of a contract with a reinsurance intermediary-manager, the reinsurer shall provide written notification of the termination to the commissioner.

(6) A reinsurer may not appoint to its board of directors an officer, director, employee, controlling shareholder, or subproducer of its reinsurance intermediary-manager. This subsection does not apply to relationships governed by the insurer holding company act, chapter 48.31B RCW, or, if applicable, the ((~~Broker controlled~~)) producer-controlled property and casualty insurer act, chapter 48.97 RCW.

Sec. 75. RCW 48.97.005 and 1993 c 462 s 17 are each amended to read as follows:

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

(1) "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners.

(2) ((~~"Broker" means an insurance broker or brokers or any other person, firm, association, or corporation, when, for compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of an insurance contract on behalf of an insured other than the person, firm, association, or corporation.~~

~~(3)~~)) "Control" or "controlled by" has the meaning ascribed in RCW 48.31B.005(2).

((~~(4)~~)) (3) "Controlled insurer" means a licensed insurer that is controlled, directly or indirectly, by a broker.

((~~(5)~~)) (4) "Controlling producer" means a ((~~broker~~)) producer who, directly or indirectly, controls an insurer.

((~~(6)~~)) (5) "Licensed insurer" or "insurer" means a person, firm, association, or corporation licensed to transact property and casualty insurance business in this state. The following, among others, are not licensed insurers for purposes of this chapter:

(a) Risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, P.L. 99-499, 100 Stat. 1613 (1986), the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq. (1982 Supp. 1986), and chapter 48.92 RCW;

(b) Residual market pools and joint underwriting associations; and

(c) Captive insurers. For the purposes of this chapter, captive insurers are insurance companies owned by another organization, whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the

case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members, or both, and their affiliates.

(6) "Producer" means an insurance broker or brokers or any other person, firm, association, or corporation when, for compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of an insurance contract on behalf of an insured other than the person, firm, association, or corporation.

Sec. 76. RCW 48.97.015 and 1993 c 462 s 19 are each amended to read as follows:

(1)(a) This section applies in a particular calendar year if in that calendar year the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling ((~~broker~~)) producer is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September 30th of the prior year.

(b) Notwithstanding (a) of this subsection, this section does not apply if:

(i) The controlling producer:

(A) Places insurance only with the controlled insurer; or only with the controlled insurer and a member or members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate, or subsidiary and receives no compensation based upon the amount of premiums written in connection with the insurance; and

(B) Accepts insurance placements only from nonaffiliated ((~~subbrokers~~)) subproducers, and not directly from insureds; and

(ii) The controlled insurer, except for business written through a residual market facility such as the assigned risk plan, fair plans, or other such plans, accepts insurance business only from a controlling ((~~broker, a broker~~)) producer, a producer controlled by the controlled insurer, or a ((~~broker~~)) producer that is a subsidiary of the controlled insurer.

(2) A controlled insurer may not accept business from a controlling ((~~broker~~)) producer and a controlling ((~~broker~~)) producer may not place business with a controlled insurer unless there is a written contract between the controlling ((~~broker~~)) producer and the insurer specifying the responsibilities of each party, which contract has been approved by the board of directors of the insurer and contains the following minimum provisions:

(a) The controlled insurer may terminate the contract for cause, upon written notice to the controlling ((~~broker~~)) producer. The controlled insurer shall suspend the authority of the controlling ((~~broker~~)) producer to write business during the pendency of a dispute regarding the cause for the termination;

(b) The controlling ((~~broker~~)) producer shall render accounts to the controlling insurer detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling ((~~broker~~)) producer;

(c) The controlling ((~~broker~~)) producer shall remit all funds due under the terms of the contract to the controlling insurer on at least a monthly basis. The due date must be fixed so that premiums or installments collected are remitted

no later than ninety days after the effective date of a policy placed with the controlling insurer under this contract;

(d) The controlling ((~~broker~~)) producer shall hold all funds collected for the controlled insurer's account in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the federal reserve system, in accordance with the applicable provisions of this title. However, funds of a controlling ((~~broker~~)) producer not required to be licensed in this state must be maintained in compliance with the requirements of the controlling ((~~broker's~~)) producer's domiciliary jurisdiction;

(e) The controlling ((~~broker~~)) producer shall maintain separately identifiable records of business written for the controlled insurer;

(f) The contract shall not be assigned in whole or in part by the controlling ((~~broker~~)) producer;

(g) The controlled insurer shall provide the controlling ((~~broker~~)) producer with its underwriting standards, rules, and procedures, manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling ((~~broker~~)) producer shall adhere to the standards, rules, procedures, rates, and conditions that are the same as those applicable to comparable business placed with the controlled insurer by a ((~~broker~~)) producer other than the controlling ((~~broker~~)) producer;

(h) The rates of the controlling ((~~broker's~~)) producer's commissions, charges, and other fees must be no greater than those applicable to comparable business placed with the controlled insurer by ((~~brokers~~)) producers other than controlling ((~~brokers~~)) producers. For purposes of (g) and (h) of this subsection, examples of comparable business include the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business;

(i) If the contract provides that the controlling ((~~broker~~)) producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then the compensation shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event may the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified under subsection (3) of this section;

(j) The insurer may establish a different limit on the controlling ((~~broker's~~)) producer's writings in relation to the controlled insurer's surplus and total writings for each line or subline of business. The controlled insurer shall notify the controlling ((~~broker~~)) producer when the applicable limit is approached and may not accept business from the controlling ((~~broker~~)) producer if the limit is reached. The controlling ((~~broker~~)) producer may not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached; and

(k) The controlling ((~~broker~~)) producer may negotiate but may not bind reinsurance on behalf of the controlled insurer on business the controlling ((~~broker~~)) producer places with the controlled insurer, except that the controlling ((~~broker~~)) producer may bind facultative reinsurance contracts under obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a

list of reinsurers with which the automatic agreements are in effect, the coverages and amounts of percentages that may be reinsured, and commission schedules.

(3) Every controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet with management, the insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the commissioner to review the adequacy of the insurer's loss reserves.

(4)(a) In addition to any other required loss reserve certification, the controlled insurer shall, annually, on April 1st of each year, file with the commissioner an opinion of an independent casualty actuary, or such other independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end, including losses incurred but not reported, on business placed by the ((~~broker~~)) producer; and

(b) The controlled insurer shall annually report to the commissioner the amount of commissions paid to the producer, the percentage that amount represents of the net premiums written, and comparable amounts and percentages paid to noncontrolling ((~~brokers~~)) producers for placements of the same kinds of insurance.

Sec. 77. RCW 48.97.020 and 1993 c 462 s 20 are each amended to read as follows:

The ((~~broker~~)) producer, before the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the ((~~broker~~)) producer and the controlled insurer, except that, if the business is placed through a ((~~subbroker~~)) subproducer who is not a controlling ((~~broker~~)) producer, the controlling ((~~broker~~)) producer shall retain in his or her records a signed commitment from the ((~~subbroker~~)) subproducer that the ((~~subbroker~~)) subproducer is aware of the relationship between the insurer and the ((~~broker~~)) producer and that the ((~~subbroker~~)) subproducer has notified or will notify the insured.

Sec. 78. RCW 48.97.025 and 1993 c 462 s 21 are each amended to read as follows:

(1)(a) If the commissioner believes that the controlling ((~~broker~~)) producer has not materially complied with this chapter, or a rule adopted or order issued under this chapter, the commissioner may after notice and opportunity to be heard, order the controlling ((~~broker~~)) producer to cease placing business with the controlled insurer; and

(b) If it is found that because of material noncompliance that the controlled insurer or any policyholder thereof has suffered loss or damage, the commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder or other appropriate relief.

(2) If an order for liquidation or rehabilitation of the controlled insurer has been entered under chapter 48.31 RCW, and the receiver appointed under that order believes that the controlling ((~~broker~~)) producer or any other person has

not materially complied with this chapter, or a rule adopted or order issued under this chapter, and the insurer suffered any loss or damage from the noncompliance, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

(3) Nothing contained in this section alters or affects the right of the commissioner to impose other penalties provided for in this title.

(4) Nothing contained in this section alters or affects the rights of policyholders, claimants, creditors, or other third parties.

Sec. 79. RCW 48.97.900 and 1993 c 462 s 16 are each amended to read as follows:

This chapter may be known and cited as the business transacted with ((~~Broker-controlled~~)) producer-controlled property and casualty insurer act.

Sec. 80. RCW 48.98.010 and 1993 c 462 s 36 are each amended to read as follows:

(1) No person may act in the capacity of a managing general agent with respect to risks located in this state, for an insurer authorized by this state, unless that person is licensed in this state as an ((~~agent~~)) insurance producer, under chapter 48.17 RCW, for the lines of insurance involved and is designated as a managing general agent and appointed as such by the insurer.

(2) No person may act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless that person is licensed as an ((~~agent~~)) insurance producer in this state, under chapter 48.17 RCW, for the lines of insurance involved and is designated as a managing general agent and appointed as such by the insurer.

(3) The commissioner may require a bond for the protection of each insurer.

(4) The commissioner may require the managing general agent to maintain an errors and omissions policy.

Sec. 81. RCW 48.98.015 and 2005 c 223 s 32 are each amended to read as follows:

A managing general agent may not place business with an insurer unless there is in force a written contract between the managing general agent and the insurer that sets forth the responsibilities of each party and, where both parties share responsibility for a particular function, that specifies the division of the responsibilities, and that contains the following minimum provisions:

(1) The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of a dispute regarding the cause for termination.

(2) The managing general agent shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(3) The managing general agent shall hold funds collected for the account of an insurer in a fiduciary capacity in an FDIC insured financial institution. This account must be used for all payments on behalf of the insurer. The managing general agent may retain no more than three months' estimated claims payments and allocated loss adjustment expenses.

(4) The managing general agent shall maintain separate records of business written for each insurer. The insurer has access to and the right to copy all

accounts and records related to its business in a form usable by the insurer, and the commissioner has access to all books, bank accounts, and records of the managing general agent in a form usable to the commissioner. Those records must be retained according to the requirements of this title and rules adopted under it.

(5) The managing general agent may not assign the contract in whole or part.

(6)(a) Appropriate underwriting guidelines must include at least the following: The maximum annual premium volume; the basis of the rates to be charged; the types of risks that may be written; maximum limits of liability; applicable exclusions; territorial limitations; policy cancellation provisions; and the maximum policy period.

(b) The insurer has the right to cancel or not renew any policy of insurance, subject to the applicable laws and rules, including those in chapter 48.18 RCW.

(7) If the contract permits the managing general agent to settle claims on behalf of the insurer:

(a) All claims must be reported to the insurer in a timely manner;

(b) A copy of the claim file must be sent to the insurer at its request or as soon as it becomes known that the claim:

(i) Has the potential to exceed an amount determined by the commissioner, or exceeds the limit set by the insurer, whichever is less;

(ii) Involves a coverage dispute;

(iii) May exceed the managing general agent's claims settlement authority;

(iv) Is open for more than six months; or

(v) Is closed by payment in excess of an amount set by the commissioner or an amount set by the insurer, whichever is less;

(c) All claim files are the joint property of the insurer and the managing general agent. However, upon an order of liquidation of the insurer, those files become the sole property of the insurer or its liquidator or successor. The managing general agent has reasonable access to and the right to copy the files on a timely basis; and

(d) Settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the managing general agent's settlement authority during the pendency of a dispute regarding the cause for termination.

(8) When electronic claims files are in existence, the contract must address the timely transmission of the data.

(9) If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments or in any other manner, interim profits may not be paid to the managing general agent until one year after they are earned for property insurance business and five years after they are earned on casualty business and not until the profits have been verified under RCW 48.98.020.

(10) The managing general agent may not:

(a) Bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind automatic reinsurance contracts under obligatory automatic agreements if the contract with the insurer contains

reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules;

(b) Commit the insurer to participate in insurance or reinsurance syndicates;

(c) Use an ((~~agent~~)) insurance producer that is not appointed to represent the insurer in accordance with the requirements of chapter 48.17 RCW;

(d) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, that may not exceed one percent of the insurer's policyholder surplus as of December 31st of the last-completed calendar year;

(e) Collect a payment from a reinsurer or commit the insurer to a claim settlement with a reinsurer, without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded to the insurer;

(f) Permit an agent appointed by it to serve on the insurer's board of directors;

(g) Jointly employ an individual who is employed by the insurer; or

(h) Appoint a submanaging general agent.

Sec. 82. RCW 48.98.020 and 1993 c 462 s 38 are each amended to read as follows:

(1) The insurer shall have on file an independent audited financial statement, in a form acceptable to the commissioner, of each managing general agent with which it is doing or has done business.

(2) If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This is in addition to any other required loss reserve certification.

(3) The insurer shall periodically, and no less frequently than semiannually, conduct an on-site review of the underwriting and claims processing operations of the managing general agent.

(4) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates must rest with an officer of the insurer, who may not be affiliated with the managing general agent.

(5) Within thirty days of entering into or terminating a contract with a managing general agent, the insurer shall provide written notification of that appointment or termination to the commissioner. Notices of appointment of a managing general agent must include a statement of duties that the managing general agent is expected to perform on behalf of the insurer, the lines of insurance for which the managing general agent is to be authorized to act, and any other information the commissioner may request. This subsection applies to managing general agents operating in this state.

(6) An insurer shall review its books and records each calendar quarter to determine if any ((~~agent~~)) insurance producer has become a managing general agent. If the insurer determines that an ((~~agent~~)) insurance producer has become a managing general agent under RCW 48.98.005, the insurer shall promptly notify the ((~~agent~~)) insurance producer and the commissioner of that determination, and the insurer and ((~~agent~~)) insurance producer shall fully comply with this chapter within thirty days.

(7) An insurer may not appoint to its board of directors an officer, director, employee, subagent, or controlling shareholder of its managing general agents. This subsection does not apply to relationships governed by the Insurer Holding Company Act, chapter 48.31B RCW, or, if applicable, the business transacted with Broker-controlled Property and Casualty Insurer Act, chapter 48.97 RCW.

Sec. 83. RCW 48.98.030 and 1993 c 462 s 40 are each amended to read as follows:

(1) Subject to a hearing in accordance with chapters 34.05 and 48.04 RCW, upon a finding by the commissioner that any person has violated any provision of this chapter, the commissioner may order:

(a) For each separate violation, a penalty in an amount of not more than one thousand dollars;

(b) Revocation, or suspension for up to one year, of the managing general agent's license including any insurance producer's licenses held by the managing general agent; and

(c) The managing general agent to reimburse the insurer, the rehabilitator, or liquidator of the insurer for losses incurred by the insurer caused by a violation of this chapter committed by the managing general agent.

(2) The decision, determination, or order of the commissioner under this section is subject to judicial review under chapters 34.05 and 48.04 RCW.

(3) Nothing contained in this section affects the right of the commissioner to impose any other penalties provided for in this title.

(4) Nothing contained in this chapter is intended to or in any manner limits or restricts the rights of policyholders, claimants, and auditors.

Sec. 84. RCW 48.99.030 and 1947 c 79 s .31.13 are each amended to read as follows:

(1) Whenever under the laws of this state an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this state, the court shall appoint the commissioner as ancillary receiver. The commissioner shall file a petition requesting the appointment (a) if he or she finds that there are sufficient assets of such insurer located in this state to justify the appointment of an ancillary receiver, or (b) if ten or more persons resident in this state having claims against such insurer file a petition with the commissioner requesting the appointment of such ancillary receiver.

(2) The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state, shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books and records of the insurer located in this state, and he or she shall have the immediate right to recover balances due from local ((~~agents~~)) insurance producers and to obtain possession of any books and records of the insurer found in this state. He or she shall also be entitled to recover the other assets of the insurer located in this state except that upon the appointment of an ancillary receiver in this state, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state, and shall pay the necessary expenses of the proceedings. All remaining assets ((~~he~~)) shall promptly transfer to the

domiciliary receiver. Subject to the foregoing provisions the ancillary receiver and his or her deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets, as a receiver of an insurer domiciled in this state.

(3) The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this state to recover any assets of such insurer to which he or she may be entitled under the laws of this state.

Sec. 85. RCW 48.115.001 and 2002 c 273 s 1 are each amended to read as follows:

This chapter may be known and cited as the rental car specialty insurance ((~~limited agent~~)) producer license act.

Sec. 86. RCW 48.115.005 and 2002 c 273 s 2 are each amended to read as follows:

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

(1) "Endorsee" means an unlicensed employee or agent of a rental car ((~~agent~~)) insurance producer who meets the requirements of this chapter.

(2) "Person" means an individual or a business entity.

(3) "Rental agreement" means any written master, corporate, group, or individual agreement setting forth the terms and conditions governing the use of a rental car rented or leased by a rental car company.

(4) "Rental car" means any motor vehicle that is intended to be rented or leased for a period of thirty consecutive days or less by a driver who is not required to possess a commercial driver's license to operate the motor vehicle and the motor vehicle is either of the following:

(a) A private passenger motor vehicle, including a passenger van, recreational vehicle, minivan, or sports utility vehicle; or

(b) A cargo vehicle, including a cargo van, pickup truck, or truck with a gross vehicle weight of less than twenty-six thousand pounds.

(5) "Rental car ((~~agent~~)) insurance producer" means any rental car company that is licensed to offer, sell, or solicit rental car insurance under this chapter.

(6) "Rental car company" means any person in the business of renting rental cars to the public, including a franchisee.

(7) "Rental car insurance" means insurance offered, sold, or solicited in connection with and incidental to the rental of rental cars, whether at the rental office or by preselection of coverage in master, corporate, group, or individual agreements that: (a) Is nontransferable; (b) applies only to the rental car that is the subject of the rental agreement; and (c) is limited to the following kinds of insurance:

(i) Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

(ii) Liability insurance, including uninsured or underinsured motorist coverage, whether offered separately or in combination with other liability insurance, that provides protection to the renters and to other authorized drivers of a rental car for liability arising from the operation of the rental car during the rental period;

(iii) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period; and

(iv) Roadside assistance and emergency sickness protection insurance.

(8) "Renter" means any person who obtains the use of a vehicle from a rental car company under the terms of a rental agreement.

Sec. 87. RCW 48.115.010 and 2002 c 273 s 3 are each amended to read as follows:

(1) A rental car company, or officer, director, employee, or agent of a rental car company, may not offer, sell, or solicit the purchase of rental car insurance unless that person is licensed under chapter 48.17 RCW or is in compliance with this chapter.

(2) The commissioner may issue a license to a rental car company that is in compliance with this chapter authorizing the rental car company to act as a rental car ((~~agent~~)) insurance producer under this chapter, in connection with and incidental to rental agreements, on behalf of any insurer authorized to write rental car insurance in this state.

Sec. 88. RCW 48.115.015 and 2002 c 273 s 4 are each amended to read as follows:

A rental car company may apply to be licensed as a rental car ((~~agent~~)) insurance producer under, and if in compliance with, this chapter by filing the following documents with the commissioner:

(1) A written application for licensure, signed by the applicant or by an officer of the applicant, in the form prescribed by the commissioner that includes a listing of all locations at which the rental car company intends to offer, sell, or solicit rental car insurance; and

(2)(a) A certificate by the insurer that is to be named in the rental car ((~~agent~~)) insurance producer license, stating that: (i) The insurer has satisfied itself that the named applicant is trustworthy and competent to act as its rental car ((~~agent~~)) insurance producer, limited to this purpose; (ii) the insurer has reviewed the endorsee training and education program required by RCW 48.115.020(4) and believes that it satisfies the statutory requirements; and (iii) the insurer will appoint the applicant to act as its rental car ((~~agent~~)) insurance producer to offer, sell, or solicit rental car insurance, if the license for which the applicant is applying is issued by the commissioner.

(b) The certification shall be subscribed by an authorized representative of the insurer on a form prescribed by the commissioner.

Sec. 89. RCW 48.115.020 and 2002 c 273 s 5 are each amended to read as follows:

(1) An employee or agent of a rental car ((~~agent~~)) insurance producer may be an endorsee authorized to offer, sell, or solicit rental car insurance under the authority of the rental car ((~~agent~~)) insurance producer license, if all of the following conditions have been satisfied:

(a) The employee or agent is eighteen years of age or older;

(b) The employee or agent is a trustworthy person and has not committed any act set forth in RCW 48.17.530;

(c) The employee or agent has completed a training and education program;

(d) The rental car company, at the time it submits its rental car ((~~agent~~)) insurance producer license application, also submits a list of the names of all endorsees to its rental car ((~~agent~~)) insurance producer license on forms prescribed by the commissioner. The list shall be updated and submitted to the commissioner quarterly on a calendar year basis. Each list shall be retained by the rental car company for a period of three years from submission; and

(e) The rental car company or its agent submits to the commissioner with its initial rental car ((~~agent~~)) insurance producer license application, and annually thereafter, a certification subscribed by an officer of the rental car company on a form prescribed by the commissioner, stating all of the following:

(i) No person other than an endorsee offers, sells, or solicits rental car insurance on its behalf or while working as an employee or agent of the rental car ((~~agent~~)) insurance producer; and

(ii) All endorsees have completed the training and education program under subsection (4) of this section.

(2) A rental car ((~~agent's~~)) insurance producer's endorsee may only act on behalf of the rental car ((~~agent~~)) insurance producer in the offer, sale, or solicitation of a rental car insurance. A rental car ((~~agent~~)) insurance producer is responsible for, and must supervise, all actions of its endorsees related to the offering, sale, or solicitation of rental car insurance. The conduct of an endorsee acting within the scope of his or her employment or agency is the same as the conduct of the rental car ((~~agent~~)) insurance producer for purposes of this chapter.

(3) The manager at each location of a rental car ((~~agent~~)) insurance producer, or the direct supervisor of the rental car ((~~agent's~~)) insurance producer's endorsees at each location, must be an endorsee of that rental car ((~~agent~~)) insurance producer and is responsible for the supervision of each additional endorsee at that location. Each rental car ((~~agent~~)) insurance producer shall identify the endorsee who is the manager or direct supervisor at each location in the endorsee list that it submits under subsection (1)(d) of this section.

(4) Each rental car ((~~agent~~)) insurance producer shall provide a training and education program for each endorsee prior to allowing an endorsee to offer, sell, or solicit rental car insurance. Details of the program must be submitted to the commissioner, along with the license application, for approval prior to use, and resubmitted for approval of any changes prior to use. This training program shall meet the following minimum standards:

(a) Each endorsee shall receive instruction about the kinds of insurance authorized under this chapter that may be offered for sale to prospective renters; and

(b) Each endorsee shall receive training about the requirements and limitations imposed on ((~~car~~)) rental ((~~agents~~)) car insurance producers and endorsees under this chapter. The training must include specific instruction that the endorsee is prohibited by law from making any statement or engaging in any conduct express or implied, that would lead a consumer to believe that the:

(i) Purchase of rental car insurance is required in order for the renter to rent a motor vehicle;

(ii) Renter does not have insurance policies in place that already provide the coverage being offered by the rental car company under this chapter; or

(iii) Endorsee is qualified to evaluate the adequacy of the renter's existing insurance coverages.

(5) The training and education program submitted to the commissioner is approved if no action is taken within thirty days of its submission.

(6) An endorsee's authorization to offer, sell, or solicit rental car insurance expires when the endorsee's employment with the rental car company is terminated.

(7) The rental car ((~~agent~~)) insurance producer shall retain for a period of one year from the date of each transaction records which enable it to identify the name of the endorsee involved in each rental transaction when a renter purchases rental car insurance.

Sec. 90. RCW 48.115.025 and 2002 c 273 s 6 are each amended to read as follows:

Insurance may not be offered, sold, or solicited under this section, unless:

(1) The rental period of the rental car agreement is thirty consecutive days or less;

(2) At every location where rental agreements are executed, the rental car ((~~agent~~)) insurance producer or endorsee provides brochures or other written materials to each renter who purchases rental car insurance that clearly, conspicuously, and in plain language:

(a) Summarize, clearly and correctly, the material terms, exclusions, limitations, and conditions of coverage offered to renters, including the identity of the insurer;

(b) Describe the process for filing a claim in the event the renter elects to purchase coverage, including a toll-free telephone number to report a claim;

(c) Provide the rental car ((~~agent's~~)) insurance producer's name, address, telephone number, and license number, as well as the commissioner's consumer hotline number;

(d) Inform the consumer that the rental car insurance offered, sold, or solicited by the rental car ((~~agent~~)) insurance producer may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowners' insurance policy, or by another source of coverage;

(e) Inform the consumer that the purchase by the renter of the rental car insurance is not required in order to rent a rental car from the rental car ((~~agent~~)) insurance producer; and

(f) Inform the consumer that the rental car ((~~agent~~)) insurance producer and the rental car ((~~agent's~~)) insurance producer's endorsees are not qualified to evaluate the adequacy of the renter's existing insurance coverages;

(3) The purchaser of rental car insurance acknowledges in writing the receipt of the brochures or written materials required by subsection (2) of this section;

(4) Evidence of the rental car insurance coverage is stated on the face of the rental agreement;

(5) All costs for the rental car insurance are separately itemized in the rental agreement;

(6) When the rental car insurance is not the primary source of coverage, the consumer is informed in writing in the form required by subsection (2) of this section that their personal insurance will serve as the primary source of coverage; and

(7) For transactions conducted by electronic means, the rental car ((~~agent~~)) insurance producer must comply with the requirements of this section, and the renter must acknowledge in writing or by electronic signature the receipt of the following disclosures:

(a) The insurance policies offered by the rental car ((~~agent~~)) insurance producer may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowners' insurance policy, or by another source of coverage;

(b) The purchase by the renter of rental car insurance is not required in order to rent a rental car from the rental car ((~~agent~~)) insurance producer; and

(c) The rental car ((~~agent~~)) insurance producer and the rental car ((~~agent's~~)) insurance producer's endorsees are not qualified to evaluate the adequacy of the renter's existing insurance coverages.

Sec. 91. RCW 48.115.030 and 2002 c 273 s 7 are each amended to read as follows:

A rental car ((~~agent~~)) insurance producer may not:

(1) Offer, sell, or solicit the purchase of insurance except in conjunction with and incidental to rental car agreements;

(2) Advertise, represent, or otherwise portray itself or any of its employees or agents as licensed insurers((~~, insurance agents,~~)) or insurance ((~~brokers~~)) producers;

(3) Pay any person, including a rental car ((~~agent~~)) insurance producer endorsee, any compensation, fee, or commission that is dependent primarily on the placement of insurance under the license issued under this chapter;

(4) Make any statement or engage in any conduct, express or implied, that would lead a customer to believe that the:

(a) Insurance policies offered by the rental car ((~~agent~~)) insurance producer do not provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowners' insurance policy, or by another source of coverage;

(b) Purchase by the renter of rental car insurance is required in order to rent a rental car from the rental car ((~~agent~~)) insurance producer; and

(c) Rental car ((~~agent~~)) insurance producer or the rental car ((~~agent's~~)) insurance producer's endorsees are qualified to evaluate the adequacy of the renter's existing insurance coverages.

Sec. 92. RCW 48.115.035 and 2002 c 273 s 8 are each amended to read as follows:

(1) Every rental car ((~~agent~~)) insurance producer licensed under this chapter shall promptly reply in writing to an inquiry of the commissioner relative to the business of ((~~car~~)) rental car insurance.

(2)(a) In the event of a violation of this chapter by a rental car ((~~agent~~)) insurance producer, the commissioner may revoke, suspend, or refuse to issue or renew any rental car ((~~agent's~~)) insurance producer's license that is issued or may be issued under this chapter for any cause specified in any other provision of this title, or for any of the following causes:

(i) For any cause that the issuance of this license could have been refused had it then existed and been known to the commissioner;

(ii) If the licensee or applicant willfully violates or knowingly participates in a violation of this title or any proper order or rule of the commissioner;

(iii) If the licensee or applicant has obtained or attempted to obtain a license through willful misrepresentation or fraud;

(iv) If the licensee or applicant has misappropriated or converted funds that belong to, or should be paid to, another person as a result of, or in connection with, a ((~~car~~)) rental car or insurance transaction;

(v) If the licensee or applicant has, with intent to deceive, materially misrepresented the terms or effects of any insurance contract, or has engaged, or is about to engage, in any fraudulent transaction;

(vi) If the licensee or applicant or officer of the licensee or applicant has been convicted by final judgment of a felony;

(vii) If the licensee or applicant is shown to be, and is determined by the commissioner, incompetent or untrustworthy, or a source of injury and loss to the public; and

(viii) If the licensee has dealt with, or attempted to deal with, insurances, or has exercised powers relative to insurance outside the scope of the ((~~car~~)) rental ((~~agent~~)) car insurance producer license or other insurance licenses.

(b) If any natural person named under a firm or corporate ((~~car~~)) rental ((~~agent~~)) car insurance producer license, or application therefore, commits or has committed any act, or fails or has failed to perform any duty, that constitutes grounds for the commissioner to revoke, suspend, or refuse to issue or renew the license or application for license, the commissioner may revoke, suspend, refuse to renew, or refuse to issue the license or application for a license of the corporation or firm.

(c) Any conduct of an applicant or licensee that constitutes grounds for disciplinary action under this title may be addressed under this section regardless of where the conduct took place.

(d) The holder of any license that has been revoked or suspended shall surrender the license to the commissioner at the commissioner's request.

(e) After notice and hearing the commissioner may impose other penalties, including suspending the transaction of insurance at specific rental locations where violations of this section have occurred and imposing fines on the manager or supervisor at each location responsible for the supervision and conduct of each endorsee, as the commissioner determines necessary or convenient to carry out the purpose of this chapter.

(3) The commissioner may suspend, revoke, or refuse to renew any ((~~car~~)) rental ((~~agent~~)) car insurance producer license by an order served by mail or personal service upon the licensee not less than fifteen days prior to its effective date. The order is subject to the right of the licensee to a hearing under chapter 48.04 RCW.

(4) The commissioner may temporarily suspend a license by an order served by mail or personal service upon the licensee not less than three days prior to its effective date. However, the order must contain a notice of revocation and include a finding that the public safety or welfare imperatively requires emergency action. These suspensions may continue only until proceedings for revocation are concluded. The commissioner may also temporarily suspend a license in cases when proceedings for revocation are pending if it is found that the public safety or welfare imperatively requires emergency action.

(5) Service by mail under this section means posting in the United States mail, addressed to the licensee at the most recent address shown in the commissioner's licensing records for the licensee. Service by mail is complete upon deposit in the United States mail.

(6) If any person sells insurance in connection with or incidental to rental car agreements, or holds himself or herself or a company out as a rental car ((~~agent~~)) insurance producer, without satisfying the requirements of this chapter, the commissioner is authorized to issue a cease and desist order.

Sec. 93. RCW 48.115.040 and 2002 c 273 s 9 are each amended to read as follows:

A rental car ((~~agent~~)) insurance producer is not required to treat moneys collected from renters purchasing rental car insurance as funds received in a fiduciary capacity, if:

(1) The charges for rental car insurance coverage are itemized and ancillary to a rental transaction; and

(2) The insurer has consented in writing, signed by an officer of the insurer, that premiums need not be segregated from funds received by the rental car ((~~agent~~)) insurance producer.

Sec. 94. RCW 48.120.005 and 2002 c 357 s 1 are each amended to read as follows:

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

(1) "Communications equipment" means handsets, pagers, personal digital assistants, portable computers, automatic answering devices, batteries, and their accessories or other devices used to originate or receive communications signals or service approved for coverage by rule of the commissioner, and also includes services related to the use of the devices.

(2) "Communications equipment insurance program" means an insurance program as described in RCW 48.120.015.

(3) "Communications service" means the service necessary to send, receive, or originate communications signals.

(4) "Customer" means a person or entity purchasing or leasing communications equipment or communications services from a vendor.

(5) "Specialty producer license" means a license issued under RCW 48.120.010 that authorizes a vendor to offer or sell insurance as provided in RCW 48.120.015.

(6) "Supervising agent" means an ((~~agent~~)) appointed insurance producer licensed under RCW ((~~48.17.060~~)) 48.17.090 who provides training as described in RCW 48.120.020 and is affiliated to a licensed vendor.

(7) "Vendor" means a person or entity resident or with offices in this state in the business of leasing, selling, or providing communications equipment or communications service to customers.

(8) "Appointing insurer" means the insurer appointing the vendor as its agent under a specialty producer license.

Sec. 95. RCW 48.120.010 and 2002 c 357 s 2 are each amended to read as follows:

(1) A vendor that intends to offer insurance under RCW 48.120.015 must file a specialty producer license application with the commissioner. Before the

commissioner issues such a license, the vendor must be appointed as the ((~~agent~~)) insurance producer of one or more authorized appointing insurers under a vendor's specialty producer license.

(2) Upon receipt of an application, if the commissioner is satisfied that the application is complete, the commissioner may issue a specialty producer license to the vendor.

Sec. 96. RCW 48.125.030 and 2004 c 260 s 5 are each amended to read as follows:

The commissioner may not issue a certificate of authority to a self-funded multiple employer welfare arrangement unless the arrangement establishes to the satisfaction of the commissioner that the following requirements have been satisfied by the arrangement:

(1) The employers participating in the arrangement are members of a bona fide association;

(2) The employers participating in the arrangement exercise control over the arrangement, as follows:

(a) Subject to (b) of this subsection, control exists if the board of directors of the bona fide association or the employers participating in the arrangement have the right to elect at least seventy-five percent of the individuals designated in the arrangement's organizational documents as having control over the operations of the arrangement and the individuals designated in the arrangement's organizational documents in fact exercise control over the operation of the arrangement; and

(b) The use of a third-party administrator to process claims and to assist in the administration of the arrangement is not evidence of the lack of exercise of control over the operation of the arrangement;

(3) In this state, the arrangement provides only health care services;

(4) In this state, the arrangement provides or arranges benefits for health care services in compliance with those provisions of this title that mandate particular benefits or offerings and with provisions that require access to particular types or categories of health care providers and facilities;

(5) In this state, the arrangement provides or arranges benefits for health care services in compliance with RCW 48.43.500 through 48.43.535, 48.43.545, and 48.43.550;

(6) The arrangement provides health care services to not less than twenty employers and not less than seventy-five employees;

(7) The arrangement may not solicit participation in the arrangement from the general public. However, the arrangement may employ licensed insurance ((~~agents~~)) producers who receive a commission, unlicensed individuals who do not receive a commission, and may contract with a licensed insurance producer who may be paid a commission or other remuneration, for the purpose of enrolling and renewing the enrollments of employers in the arrangement;

(8) The arrangement has been in existence and operated actively for a continuous period of not less than ten years as of December 31, 2003, except for an arrangement that has been in existence and operated actively since December 31, 2000, and is sponsored by an association that has been in existence more than twenty-five years; and

(9) The arrangement is not organized or maintained solely as a conduit for the collection of premiums and the forwarding of premiums to an insurance company.

Sec. 97. RCW 48.135.010 and 2006 c 284 s 2 are each amended to read as follows:

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

(1) "Insurance fraud" means an act or omission committed by a person who, knowingly, and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

(a) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by an insurer((~~, broker, or its agent~~)) or insurance producer, false information as part of, in support of, or concerning a fact material to one or more of the following:

(i) An application for the issuance or renewal of an insurance policy;

(ii) The rating of an insurance policy or contract;

(iii) A claim for payment or benefit pursuant to an insurance policy;

(iv) Premiums paid on an insurance policy;

(v) Payments made in accordance with the terms of an insurance policy; or

(vi) The reinstatement of an insurance policy;

(b) Willful embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits, or other property of an insurer or person engaged in the business of insurance; or

(c) Attempting to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subsection.

The definition of insurance fraud is for illustrative purposes only under this chapter to describe the nature of the behavior to be reported and investigated, and is not intended in any manner to create or modify the definition of any existing criminal acts nor to create or modify the burdens of proof in any criminal prosecution brought as a result of an investigation under this chapter.

(2) "Insurer" means an insurance company authorized under chapter 48.05 RCW, a health care service contractor registered under chapter 48.44 RCW, and a health care maintenance organization registered under chapter 48.46 RCW.

Sec. 98. RCW 51.12.020 and 1999 c 68 s 1 are each amended to read as follows:

The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, or repair, in or about the private home of the employer. For the purposes of this subsection, "maintenance" means the work of keeping in proper condition, "repair" means to restore to sound condition after damage, and "private home" means a person's place of residence.

(3) A person whose employment is not in the course of the trade, business, or profession of his or her employer and is not in or about the private home of the employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors or partners.

(6) Any child under eighteen years of age employed by his or her parent or parents in agricultural activities on the family farm.

(7) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67.16 RCW.

(8)(a) Except as otherwise provided in (b) of this subsection, any bona fide officer of a corporation voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation, who at all times during the period involved is also a bona fide director, and who is also a shareholder of the corporation. Only such officers who exercise substantial control in the daily management of the corporation and whose primary responsibilities do not include the performance of manual labor are included within this subsection.

(b) Alternatively, a corporation that is not a "public company" as defined in RCW 23B.01.400((~~(21)~~))(24) may exempt eight or fewer bona fide officers, who are voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation and who exercise substantial control in the daily management of the corporation, from coverage under this title without regard to the officers' performance of manual labor if the exempted officer is a shareholder of the corporation, or may exempt any number of officers if all the exempted officers are related by blood within the third degree or marriage. If a corporation that is not a "public company" elects to be covered under subsection (8)(a) of this section, the corporation's election must be made on a form prescribed by the department and under such reasonable rules as the department may adopt.

(c) Determinations respecting the status of persons performing services for a corporation shall be made, in part, by reference to Title 23B RCW and to compliance by the corporation with its own articles of incorporation and bylaws. For the purpose of determining coverage under this title, substance shall control over form, and mandatory coverage under this title shall extend to all workers of this state, regardless of honorary titles conferred upon those actually serving as workers.

(d) A corporation may elect to cover officers who are exempted by this subsection in the manner provided by RCW 51.12.110.

(9) Services rendered by a musician or entertainer under a contract with a purchaser of the services, for a specific engagement or engagements when such musician or entertainer performs no other duties for the purchaser and is not regularly and continuously employed by the purchaser. A purchaser does not include the leader of a group or recognized entity who employs other than on a casual basis musicians or entertainers.

(10) Services performed by a newspaper carrier selling or distributing newspapers on the street or from house to house.

(11) Services performed by an insurance ((~~agent, insurance broker, or insurance solicitor~~)) producer, as defined in RCW 48.17.010((~~, 48.17.020, and 48.17.030, respectively~~))(5).

(12) Services performed by a booth renter ((~~as defined in RCW 18.16.020~~)). However, a person exempted under this subsection may elect coverage under RCW 51.32.030.

(13) Members of a limited liability company, if either:

(a) Management of the company is vested in its members, and the members for whom exemption is sought would qualify for exemption under subsection (5) of this section were the company a sole proprietorship or partnership; or

(b) Management of the company is vested in one or more managers, and the members for whom the exemption is sought are managers who would qualify for exemption under subsection (8) of this section were the company a corporation.

Sec. 99. RCW 70.47.015 and 1997 c 337 s 1 are each amended to read as follows:

(1) The legislature finds that the basic health plan has been an effective program in providing health coverage for uninsured residents. Further, since 1993, substantial amounts of public funds have been allocated for subsidized basic health plan enrollment.

(2) It is the intent of the legislature that the basic health plan enrollment be expanded expeditiously, consistent with funds available in the health services account, with the goal of two hundred thousand adult subsidized basic health plan enrollees and one hundred thirty thousand children covered through expanded medical assistance services by June 30, 1997, with the priority of providing needed health services to children in conjunction with other public programs.

(3) Effective January 1, 1996, basic health plan enrollees whose income is less than one hundred twenty-five percent of the federal poverty level shall pay at least a ten-dollar premium share.

(4) No later than July 1, 1996, the administrator shall implement procedures whereby hospitals licensed under chapters 70.41 and 71.12 RCW, health carrier, rural health care facilities regulated under chapter 70.175 RCW, and community and migrant health centers funded under RCW 41.05.220, may expeditiously assist patients and their families in applying for basic health plan or medical assistance coverage, and in submitting such applications directly to the health care authority or the department of social and health services. The health care authority and the department of social and health services shall make every effort to simplify and expedite the application and enrollment process.

(5) No later than July 1, 1996, the administrator shall implement procedures whereby ((~~health~~)) disability insurance ((~~agents and brokers~~)) producers, licensed under chapter 48.17 RCW, may expeditiously assist patients and their families in applying for basic health plan or medical assistance coverage, and in submitting such applications directly to the health care authority or the department of social and health services. ((~~Brokers and agents~~)) Insurance producers may receive a commission for each individual sale of the basic health plan to anyone not signed up within the previous five years and a commission for each group sale of the basic health plan, if funding for this purpose is provided in a specific appropriation to the health care authority. No commission shall be provided upon a renewal. Commissions shall be determined based on the estimated annual cost of the basic health plan, however, commissions shall not result in a reduction in the premium amount paid to health carriers. For purposes of this section "health carrier" is as defined in RCW 48.43.005. The

administrator may establish: (a) Minimum educational requirements that must be completed by the ((~~agents or brokers~~)) insurance producers; (b) an appointment process for ((~~agents or brokers~~)) insurance producers marketing the basic health plan; or (c) standards for revocation of the appointment of an ((~~agent or broker~~)) insurance producer to submit applications for cause, including untrustworthy or incompetent conduct or harm to the public. The health care authority and the department of social and health services shall make every effort to simplify and expedite the application and enrollment process.

Sec. 100. RCW 82.04.260 and 2007 c 54 s 6 and 2007 c 48 s 2 are each reenacted and 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 byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct 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 shall be 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;

(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 byproducts 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 shall be 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) Beginning July 1, 2012, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables 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 shall be 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;

(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 shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or 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 shall be 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 shall be 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 shall be 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 shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(6) 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 shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) 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 shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be 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) 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 shall be 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 shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

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

(10) 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 shall be 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. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value 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:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (11), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (11) must report as required under RCW 82.32.545.

(e) This subsection (11) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

(12)(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 shall, in the case of extractors, be equal to the value of products, including byproducts, extracted, or in the case of extractors for hire, be 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 shall, in the case of manufacturers, be equal to the value of products, including byproducts, manufactured, or in the case of processors for hire, be 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 shall be 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 shall be equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(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) "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.

(ii) "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.

(iii) "Timber products" means 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; and pulp, including market pulp and pulp derived from recovered paper or paper products.

(iv) "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; and wood windows.

(13) 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 shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

NEW SECTION. **Sec. 101.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 102.** This act takes effect July 1, 2009.

Passed by the Senate February 19, 2008.
Passed by the House March 4, 2008.
Approved by the Governor March 27, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 218

[Senate Bill 6717]

PUBLIC UTILITY DISTRICTS—COMMISSIONER SALARIES

AN ACT Relating to public utility district commissioner salaries; and amending RCW 54.12.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 54.12.080 and 2007 c 469 s 4 are each amended to read as follows:

(1) Commissioners of public utility districts are eligible to receive salaries as follows:

(a) Each public utility district commissioner of a district operating utility properties shall receive a salary of one thousand four hundred dollars per month during a calendar year if the district received total gross revenue of over fifteen

million dollars during the fiscal year ending June 30th before the calendar year. However, the board of commissioners of such a public utility district may pass a resolution increasing the rate of salary up to ((~~thirteen~~)) one thousand eight hundred dollars per month.

(b) Each public utility district commissioner of a district operating utility properties shall receive a salary of ((~~seven hundred~~)) one thousand dollars per month during a calendar year if the district received total gross revenue of from two million dollars to fifteen million dollars during the fiscal year ending June 30th before the calendar year. However, the board of commissioners of such a public utility district may pass a resolution increasing the rate of salary up to ((~~nine~~)) one thousand three hundred dollars per month.

(c) Commissioners of other districts shall serve without salary. However, the board of commissioners of such a public utility district may pass a resolution providing for salaries not exceeding ((~~four~~)) six hundred dollars per month for each commissioner.

(2) In addition to salary, all districts may provide by resolution for the payment of per diem compensation to each commissioner at a rate not exceeding ninety dollars for each day or portion thereof spent in actual attendance at official meetings of the district commission or in performance of other official services or duties on behalf of the district, to include meetings of the commission of his or her district or meetings attended by one or more commissioners of two or more districts called to consider business common to them, but such compensation paid during any one year to a commissioner shall not exceed twelve thousand six hundred dollars. Per diem compensation shall not be paid for services of a ministerial or professional nature.

(3) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(4) Each district commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his or her subsistence and lodging and travel while away from his or her place of residence.

(5) Any district providing group insurance for its employees, covering them, their immediate family, and dependents, may provide insurance for its commissioner with the same coverage.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2008, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in

this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Passed by the Senate February 15, 2008.
Passed by the House March 5, 2008.
Approved by the Governor March 27, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 219

[Engrossed Substitute House Bill 1030]

ELUDING A POLICE VEHICLE—ATTEMPT—PENALTY

AN ACT Relating to the penalty for attempting to elude a police vehicle; amending RCW 9.94A.533; adding a new section to chapter 9.94A RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as the Guillermo "Bobby" Aguilar and Edgar F. Trevino-Mendoza public safety act of 2008.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW to read as follows:

(1) The prosecuting attorney may file a special allegation of endangerment by eluding in every criminal case involving a charge of attempting to elude a police vehicle under RCW 46.61.024, when sufficient admissible evidence exists, to show that one or more persons other than the defendant or the pursuing law enforcement officer were threatened with physical injury or harm by the actions of the person committing the crime of attempting to elude a police vehicle.

(2) In a criminal case in which there has been a special allegation, the state shall prove beyond a reasonable doubt that the accused committed the crime while endangering one or more persons other than the defendant or the pursuing law enforcement officer. The court shall make a finding of fact of whether or not one or more persons other than the defendant or the pursuing law enforcement officer were endangered at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not one or more persons other than the defendant or the pursuing law enforcement officer were endangered during the commission of the crime.

Sec. 3. RCW 9.94A.533 and 2007 c 368 s 9 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in ((~~[the]~~)) the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under section 2 of this act.

Passed by the House March 8, 2008.

Passed by the Senate March 6, 2008.

Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 220

[Substitute Senate Bill 6743]

AUTISM—SERVICES AND SUPPORT

AN ACT Relating to autism awareness instruction for teachers of students with autism; and adding new sections to chapter 28A.155 RCW.

Be it enacted by the Legislature of the State of Washington:

***NEW SECTION.** Sec. 1. A new section is added to chapter 28A.155 RCW to read as follows:*

(1) To the extent funds are appropriated for this purpose, by September 1, 2008, the office of the superintendent of public instruction shall print and distribute the autism guidebook as developed by the caring for Washington individuals with autism task force and make it and other relevant materials available through the department of health, department of social and health services, and the office of the superintendent of public instruction web sites and other methods as appropriate. The office of the superintendent of public instruction shall provide copies of the autism guidebook to educational service districts, school districts, and appropriate school level employees, as well as to those parent advocacy groups and other educational staff who request copies. The autism guidebook shall include, but not be limited to, the following guidelines to address the unique needs of students with autism:

(a) Extended educational programming, including extended day and extended school year services, that consider the duration of programs and settings based on an assessment of behavior, social skills, communication, academics, and self-help skills;

(b) Daily schedules reflecting minimal unstructured time and active engagement in learning activities, including lunch, snack, and recess, and providing flexibility within routines that are adaptable to individual skill levels and assist with schedule changes, such as field trips, substitute teachers, and pep rallies;

(c) In-home and community-based training or a viable alternative that assists the student with acquisition of social and behavioral skills, including strategies that facilitate maintenance and generalization of those skills from home to school, school to home, home to community, and school to community;

(d) Positive behavior support strategies based on information, such as:

(i) Antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and

(ii) A behavior intervention plan developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings;

(e) Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and postsecondary environments;

(f) Parent and family training and support, provided by qualified personnel with experience in autism spectrum disorder, that:

(i) Provides a family with skills necessary for a child to succeed in the home and community setting;

(ii) Includes information regarding resources such as parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching and management techniques related to the child's curriculum; and

(iii) Facilitates parental carryover of in-home training and includes strategies for behavior management and developing structured home environments and communication training so that parents are active participants in promoting the continuity of interventions across all settings;

(g) A suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social and behavioral progress based on the child's developmental and learning level, including acquisition, fluency, maintenance, and generalization, that encourages work towards individual independence as determined by:

(i) Adaptive behavior evaluation results;

(ii) Behavioral accommodation needs across settings; and

(iii) Transitions within the school day;

(h) Communication interventions, including language forms and functions that enhance effective communication across settings, such as augmentative, incidental, and naturalistic teaching;

(i) Social skills supports and strategies based on social skills assessment and curriculum and provided across settings, for example trained peer facilitators such as a circle of friends, video modeling, social stories, and role playing;

(j) Professional educator and staff support, such as training provided to personnel who work with students to assure the correct implementation of techniques and strategies described in the individualized education programs; and

(k) Teaching strategies based on peer reviewed and research-based practices for students with autism spectrum disorder, such as those associated with discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training.

(2) By December 1, 2008, the professional educator standards board and the office of the superintendent of public instruction shall, in collaboration with the educational service districts, local school districts, and the autism center at the University of Washington as appropriate, develop recommendations for autism awareness instruction and methods of teaching students with autism for all educator preparation and professional development programs. It is the intent of the legislature that the recommendations shall be designed with the goal of ensuring that educators and classified staff who work with children with autism are well prepared and up-to-date on the most effective methods of teaching children with autism. The recommendations shall be submitted to the governor and the education committees of the legislature and shall be made available to school districts on the office of the superintendent of public instruction's web site. The professional educator standards board and the office of the superintendent of public instruction may each submit its recommendations separately or the

recommendations may be submitted jointly. The recommendations shall at a minimum:

(a) Establish a date by which all candidates for a Washington instructional certificate shall be required to satisfactorily complete instruction in autism awareness and methods of teaching students with autism at an accredited institution of higher education; and

(b) Establish appropriate professional development requirements for existing teachers that incorporate methods for teaching students with autism.

(3) If the legislature formally approves the recommendations through the omnibus appropriations act or by statute or concurrent resolution, by July 1, 2009, each school district shall use the recommendations developed under subsection (2) of this section to develop and adopt a school district policy regarding recommended and required professional development for teachers and appropriate classified staff.

***Sec. 1 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) To the extent funds are appropriated for this purpose, by September 1, 2008, the office of the superintendent of public instruction, in collaboration with the department of health, the department of social and health services, educational service districts, local school districts, the autism center at the University of Washington, and the autism society of Washington, shall distribute information on child find responsibilities under Part B and Part C of the federal individuals with disabilities education act, as amended, to agencies, districts, and schools that participate in the location, evaluation, and identification of children who may be eligible for early intervention services or special education services.

(2) To the extent funds are made available, by September 1, 2008, the office of the superintendent of public instruction, in collaboration with the department of health and the department of social and health services, shall develop posters to be distributed to medical offices and clinics, grocery stores, and other public places with information on autism and how parents can gain access to the diagnosis and identification of autism and contact information for services and support. These must be made available on the internet for ease of distribution.

Passed by the Senate March 10, 2008.

Passed by the House March 6, 2008.

Approved by the Governor March 28, 2008, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 28, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 1, Substitute Senate Bill 6743 entitled:

"AN ACT Relating to autism awareness instruction for teachers of students with autism."

This bill provides for training and guidelines for teachers of students with autism.

Section 1 includes an extensive listing of items for an autism guidebook that is being developed by the Caring for Washington Individuals with Autism Task Force with staff support from the Department of Health. These items are very specific regarding possible strategies and activities that could be included to support children with autism in our public schools.

The OSPI already has a guide developed as a resource for both educators and parents, produced by the Autism Outreach Project, which maintains an informational web site as well as an e-mail address for communication with individuals with specific questions and concerns. I believe that this guide is the most appropriate document to address the many issues raised in Section 1.

Therefore, I have asked the OSPI to update its guide and to emphasize tools for parents to use. I have also asked that this updated guide be distributed to educational service districts, school districts, appropriate school employees and parent advocacy groups.

Additionally, I have asked the Professional Educator Standards Board and the OSPI to develop recommendations for autism awareness instruction and methods of teaching students with autism that will strengthen learning for students. The recommendations will address appropriate content in teacher preparation and professional development. These reports will be completed by December 1, 2008.

For these reasons, I am vetoing Section 1 of Substitute Senate Bill 6743.

With the exception of Section 1, Substitute Senate Bill 6743 is approved."

CHAPTER 221

[Substitute House Bill 1141]

DIVERSION RECORDS—DESTRUCTION

AN ACT Relating to destruction of diversion records; and amending RCW 13.50.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.50.050 and 2004 c 42 s 1 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a school pertaining to the investigation, diversion, and prosecution of a juvenile

attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports would jeopardize the investigation or prosecution or endanger witnesses, law enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12) The court shall not grant any motion to seal records made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless it finds that:

(a) For class B offenses other than sex offenses, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in conviction. For class C offenses other than sex offenses, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction. For gross misdemeanors and misdemeanors, since the last date of release from

confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction. For diversions, since completion of the diversion agreement, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction or diversion;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(c) No proceeding is pending seeking the formation of a diversion agreement with that person;

(d) The person has not been convicted of a class A or sex offense; and

(e) Full restitution has been paid.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(17)(a) ((~~A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the diversion agreement.~~)) (i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after the effective date of this act;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section.

(b) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to the effective date of this act, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

(c) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)(b) or (c) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)(b) or (c) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older((~~, or is eighteen years of age or older and his or her criminal history consists entirely~~

~~of one diversion agreement and two years have passed since completion of the agreement~~)) or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 222

[Third Substitute House Bill 1741]

ORAL HISTORY PROGRAM

AN ACT Relating to the oral history program; amending RCW 43.07.220, 43.07.230, 43.07.240, 43.07.365, 43.07.370, 43.07.380, and 42.52.802; adding a new section to chapter 42.52 RCW; adding new sections to chapter 44.04 RCW; adding a new section to chapter 43.07 RCW; creating new sections; and recodifying RCW 43.07.220, 43.07.230, and 43.07.240.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** Washington has developed an impressive oral history program of recording and documenting the recollections of public officials and citizens who have contributed to the rich political history surrounding the legislature. Schools, museums, historians, state agencies, and interested citizens have benefited from the availability of these educational materials. The purpose of this act is to enhance this resource by reinforcing the decision-making role of the legislature.

NEW SECTION. **Sec. 2.** A new section is added to chapter 42.52 RCW to read as follows:

This chapter does not prohibit the secretary of the senate, the chief clerk of the house of representatives, or their designee from soliciting and accepting

contributions to the legislative oral history account created in section 8 of this act.

Sec. 3. RCW 43.07.220 and 1991 c 237 s 1 are each amended to read as follows:

(1) The secretary of ((~~state~~)) the senate and the chief clerk of the house of representatives, at the direction of the legislative oral history ((~~advisory~~)) committee, shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state legislature, ((~~current and former state government officials and personnel,~~)) and other citizens who have participated in the political history of the Washington state legislature. The secretary of ((~~state shall~~)) the senate and the chief clerk of the house of representatives may contract with independent oral historians ((~~and through~~)) or the history departments of the state universities to interview and record oral histories. The ((~~tapes and tape transcripts~~)) manuscripts and publications shall be ((~~indexed and~~)) made available for research and reference through the state archives. The ((~~transcripts~~)) manuscripts, together with current and historical photographs, may be published for distribution to libraries and ((~~for sale to~~)) the general public, and posted on the legislative oral history web site.

(2) The oral history of a person who occupied positions, or was staff to a person who occupied positions, in more than one branch of government, shall be conducted by the entity authorized to conduct oral histories of persons in the position last held by the person who is the subject of the oral history. However, the person being interviewed may select the entity he or she wishes to prepare his or her oral history.

Sec. 4. RCW 43.07.230 and 1991 c 237 s 2 are each amended to read as follows:

((~~An~~)) (1) A legislative oral history ((~~advisory~~)) committee is created, which shall consist of the following individuals:

(((~~(1)~~))) (a) Four members of the house of representatives, two from each of the two largest caucuses of the house, appointed by the speaker of the house of representatives;

(((~~(2)~~))) (b) Four members of the senate, two from each of the two largest caucuses of the senate, appointed by the president of the senate;

(((~~(3)~~))) (c) The chief clerk of the house of representatives; and

(((~~(4)~~))) (d) The secretary of the senate((~~; and~~

~~(5) The secretary of state~~)).

(2) Ex officio members may be appointed by a majority vote of the committee's members appointed under subsection (1) of this section.

(3) The chair of the committee shall be elected by a majority vote of the committee members appointed under subsection (1) of this section.

Sec. 5. RCW 43.07.240 and 1991 c 237 s 3 are each amended to read as follows:

The legislative oral history ((~~advisory~~)) committee shall have the following responsibilities:

(1) To select appropriate oral history interview candidates and subjects;

(2) To select transcripts or portions of transcripts, and related historical material, for publication;

(3) To advise the secretary of ((~~state~~)) the senate and the chief clerk of the house of representatives on the format and length of individual interview series and on appropriate issues and subjects for related series of interviews;

(4) To advise the secretary of ((~~state~~)) the senate and the chief clerk of the house of representatives on the appropriate subjects, format, and length of interviews and on the process for conducting oral history interviews ((~~with subjects currently serving in the Washington state legislature~~));

(5) To advise the secretary of ((~~state~~)) the senate and the chief clerk of the house of representatives on joint programs and activities with state universities, colleges, museums, and other groups conducting oral histories; and

(6) To advise the secretary of ((~~state~~)) the senate and the chief clerk of the house of representatives on other aspects of the administration of the oral history program and on the conduct of individual interview projects.

NEW SECTION. **Sec. 6.** A new section is added to chapter 44.04 RCW to read as follows:

The secretary of the senate and the chief clerk of the house of representatives may fund oral history activities through donations as provided in section 7 of this act and through funds in the legislative gift center account created in RCW 44.73.020. The activities may include, but not be limited to, conducting interviews, preparing and indexing transcripts, publishing manuscripts and photographs, and presenting displays and programs. Donations that do not meet the criteria of the legislative oral history program may not be accepted. The secretary of the senate and the chief clerk of the house of representatives shall adopt joint rules necessary to implement this section.

NEW SECTION. **Sec. 7.** A new section is added to chapter 44.04 RCW to read as follows:

(1) The secretary of the senate and the chief clerk of the house of representatives may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms.

(2) Moneys received under this section may be used only for conducting oral histories.

(3) Moneys received under this section must be deposited in the legislative oral history account established in section 8 of this act.

(4) The secretary of the senate and the chief clerk of the house of representatives shall adopt joint rules to govern and protect the receipt and expenditure of the proceeds.

NEW SECTION. **Sec. 8.** A new section is added to chapter 44.04 RCW to read as follows:

The legislative oral history account is created in the custody of the state treasurer. All moneys received under section 7 of this act and from the legislative gift center account created in RCW 44.73.020 must be deposited in the account. Expenditures from the account may be made only for the purposes of the legislative oral history program under RCW 43.07.220 (as recodified by this act). Only the secretary of the senate or the chief clerk of the house of representatives or their designee may authorize expenditures from the account.

An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW.

NEW SECTION. **Sec. 9.** (1) All powers, duties, and functions of the secretary of state pertaining to the legislative oral history program are transferred to the secretary of the senate and the chief clerk of the house of representatives. All references to the secretary of state or the office of the secretary of state in the Revised Code of Washington shall be construed to mean the secretary of the senate and the chief clerk of the house of representatives when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the secretary of state pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the secretary of the senate and the chief clerk of the house of representatives. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the secretary of the senate and the chief clerk of the house of representatives.

(b) Any appropriations made to the secretary of state for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the secretary of the senate and the chief clerk of the house of representatives.

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

(3) All rules and all pending business before the secretary of state pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the secretary of the senate and the chief clerk of the house of representatives. All existing contracts and obligations shall remain in full force and shall be performed by the secretary of the senate and the chief clerk of the house of representatives.

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

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

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

(7) The secretary of the senate and the chief clerk of the house of representatives will determine location and staff reporting for the program.

NEW SECTION. **Sec. 10.** A new section is added to chapter 43.07 RCW to read as follows:

(1) The secretary of state shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state executive and judicial branches, the state's congressional delegation, and other citizens who have participated in the political history of Washington state. The program shall be called the Washington state legacy project. The secretary of state may contract with independent oral historians or history departments of the state universities to interview and record oral histories. The manuscripts and publications shall be made available for research and reference through the state archives. The transcripts, together with current and historical photographs, may be published for distribution to libraries and the general public, and be posted on the secretary of state's web site.

(2) The Washington state legacy project may act as a principal repository for oral histories related to community, family, and other various projects.

(3) The oral history of a person who occupied positions, or was staff to a person who occupied positions, in more than one branch of government shall be conducted by the entity authorized to conduct oral histories of persons in the position last held by the person who is the subject of the oral history. However, the person being interviewed may select the entity he or she wishes to prepare his or her oral history.

(4) The secretary of state may create a Washington state legacy project advisory council to provide advice and guidance on matters pertaining to operating the legacy project. The secretary of state may not compensate members of the legacy project advisory council but may provide reimbursement to members for expenses that are incurred in the conduct of their official duties.

Sec. 11. RCW 43.07.365 and 2002 c 358 s 3 are each amended to read as follows:

The secretary of state may fund ((~~oral history~~)) Washington state legacy project activities through donations as provided in RCW 43.07.037. The activities may include, but not be limited to, conducting interviews, preparing and indexing transcripts, publishing transcripts and photographs, and presenting displays and programs. Donations that do not meet the criteria of the ((~~oral history program~~)) Washington state legacy project may not be accepted. The secretary of state shall adopt rules necessary to implement this section.

Sec. 12. RCW 43.07.370 and 2007 c 523 s 3 are each amended to read as follows:

(1) The secretary of state may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms.

(2) Moneys received under this section may be used only for the following purposes:

(a) Conducting ((~~oral histories~~)) the Washington state legacy project;

(b) Archival activities;

(c) Washington state library activities; and

(d) Development, construction, and operation of the Washington state heritage center.

(3)(a) Moneys received under subsection (2)(a) through (c) of this section must be deposited in the ((~~oral history~~)) Washington state legacy project, state library, and archives account established in RCW 43.07.380.

(b) Moneys received under subsection (2)(d) of this section must be deposited in the Washington state heritage center account created in RCW 43.07.129.

(4) The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds.

Sec. 13. RCW 43.07.380 and 2003 c 164 s 2 are each amended to read as follows:

The ((~~oral history~~)) Washington state legacy project, state library, and archives account is created in the custody of the state treasurer. All moneys received under RCW 43.07.370 must be deposited in the account. Expenditures from the account may be made only for the purposes of the ((~~oral history program under RCW 43.07.220~~)) Washington state legacy project under section 10 of this act, archives program under RCW 40.14.020, and the state library program under chapter 27.04 RCW. Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW.

Sec. 14. RCW 42.52.802 and 2003 c 164 s 4 are each amended to read as follows:

This chapter does not prohibit the secretary of state or a designee from soliciting and accepting contributions to the ((~~oral history~~)) Washington state legacy project, state library, and archives account created in RCW 43.07.380.

NEW SECTION. **Sec. 15.** The following are each recodified as sections in chapter 44.04 RCW:

RCW 43.07.220
RCW 43.07.230
RCW 43.07.240

***NEW SECTION.** Sec. 16. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.*

***Sec. 16 was vetoed. See message at end of chapter.**

Passed by the House March 8, 2008.
Passed by the Senate March 4, 2008.
Approved by the Governor March 28, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State March 28, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 16, Third Substitute House Bill 1741 entitled:

"AN ACT Relating to the oral history program."

Sections 1 through 15 of this bill transfer the legislative portion of the Oral History Program, now called the Legislative Oral History Project, from the Office of the Secretary of State to the Legislature. The Secretary of State will continue to conduct and record histories of the Washington

state executive and judicial branches, the state's congressional delegation, and other citizens who have participated in the political history of the state under a new program called the Washington State Legacy Project.

Section 16 would declare this act null and void if funding were not provided specifically for this measure in the omnibus appropriations act. The bill provides for funding for legislative oral history projects to come from proceeds from the Legislative Gift Center. The scope of oral history projects conducted can vary depending upon the resources available.

In order to preserve the policy in the bill, I am vetoing Section 16 to permit the bill to become law even if the money is removed from the budget.

For this reason, I have vetoed Section 16 of Third Substitute House Bill 1741.

With the exception of Section 16, Third Substitute House Bill 1741 is approved."

CHAPTER 223

[Third Substitute House Bill 2053]

ALTERNATIVE POWER GENERATION DEVICES—TAX CREDIT

AN ACT Relating to improving the availability of motor vehicle fuel in the event of an electric power outage or interruption in electric service; adding a new section to chapter 82.04 RCW; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for the purchase of an alternative power generation device and labor and services for the installation of the device, by an eligible person. The credit is equal to the lesser of fifty percent of the cost of the alternative power generation device or twenty-five thousand dollars.

(2) The amount of the credit provided in subsection (1) of this section may not exceed the tax otherwise due under this chapter for the tax reporting period.

(3) The total amount of credits taken under this section in any biennium may not exceed seven hundred fifty thousand dollars.

(4) The definitions in this subsection apply throughout this section:

(a) "Alternative power generation device" means a device capable of providing electrical power for gasoline service station pumps during periods when regular electrical power is lost including, but not limited to, portable generators, standby generators, emergency generators, or other power generation devices. "Alternative power generation device" also includes wiring necessary to make the device capable of providing electrical power to the gasoline service station pumps.

(b) "Eligible person" means a person selling motor vehicle or special fuel from a gasoline service station, or other facility, with at least four fuel pumps.

(5) This section expires June 30, 2011.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2008.

Passed by the House February 4, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 224

[Engrossed House Bill 2476]

TRIBAL POLICE OFFICERS—AUTHORITY

AN ACT Relating to authorizing tribal police officers to act as general authority Washington state peace officers; adding a new chapter to Title 10 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "General authority Washington peace officer" means an officer authorized to enforce the criminal and traffic laws of the state of Washington generally.

(2) "Tribal police officer" means any person in the employ of one of the federally recognized sovereign tribal governments, whose traditional lands and territories lie within the borders of the state of Washington, to enforce the criminal laws of that government.

NEW SECTION. **Sec. 2.** (1) Tribal police officers under subsection (2) of this section shall be recognized and authorized to act as general authority Washington peace officers. A tribal police officer recognized and authorized to act as a general authority Washington peace officer under this section has the same powers as any other general authority Washington peace officer to enforce state laws in Washington, including the power to make arrests for violations of state laws.

(2) A tribal police officer may exercise the powers of law enforcement of a general authority Washington peace officer under this section, subject to the following:

(a) The appropriate sovereign tribal nation shall submit to the office of financial management proof of public liability and property damage insurance for vehicles operated by the peace officers and police professional liability insurance from a company licensed to sell insurance in the state. For purposes of determining adequacy of insurance liability, the sovereign tribal government must submit with the proof of liability insurance a copy of the interlocal agreement between the sovereign tribal government and the local governments that have shared jurisdiction under this chapter where such an agreement has been reached pursuant to subsection (10) of this section.

(i) Within the thirty days of receipt of the information from the sovereign tribal nation, the office of financial management shall either approve or reject the adequacy of insurance, giving consideration to the scope of the interlocal agreement. The adequacy of insurance under this chapter shall be subject to annual review by the state office of financial management.

(ii) Each policy of insurance issued under this chapter must include a provision that the insurance shall be available to satisfy settlements or judgments arising from the tortious conduct of tribal police officers when acting in the capacity of a general authority Washington peace officer, and that to the extent of policy coverage neither the sovereign tribal nation nor the insurance carrier will raise a defense of sovereign immunity to preclude an action for damages under state or federal law, the determination of fault in a civil action, or the payment of a settlement or judgment arising from the tortious conduct.

(b) The appropriate sovereign tribal nation shall submit to the office of financial management proof of training requirements for each tribal police officer. To be authorized as a general authority Washington peace officer, a tribal police officer must successfully complete the requirements set forth under RCW 43.101.157. Any applicant not meeting the requirements for certification as a tribal police officer may not act as a general authority Washington peace officer under this chapter. The criminal justice training commission shall notify the office of financial management if:

(i) A tribal police officer authorized under this chapter as a general authority Washington state peace officer has been decertified pursuant to RCW 43.101.157; or

(ii) An appropriate sovereign tribal government is otherwise in noncompliance with RCW 43.101.157.

(3) A copy of any citation or notice of infraction issued, or any incident report taken, by a tribal police officer acting in the capacity of a general authority Washington peace officer as authorized by this chapter must be submitted within three days to the police chief or sheriff within whose jurisdiction the action was taken. Any citation issued under this chapter shall be to a Washington court, except that any citation issued to Indians within the exterior boundaries of an Indian reservation may be cited to a tribal court. Any arrest made or citation issued not in compliance with this chapter is not enforceable.

(4) Any authorization granted under this chapter shall not in any way expand the jurisdiction of any tribal court or other tribal authority.

(5) The authority granted under this chapter shall be coextensive with the exterior boundaries of the reservation, except that an officer commissioned under this section may act as authorized under RCW 10.93.070 beyond the exterior boundaries of the reservation.

(6) For purposes of civil liability under this chapter, a tribal police officer shall not be considered an employee of the state of Washington or any local government except where a state or local government has deputized a tribal police officer as a specially commissioned officer. Neither the state of Washington and its individual employees nor any local government and its individual employees shall be liable for the authorization of tribal police officers under this chapter, nor for the negligence or other misconduct of tribal officers. The authorization of tribal police officers under this chapter shall not be deemed to have been a nondelegable duty of the state of Washington or any local government.

(7) Nothing in this chapter impairs or affects the existing status and sovereignty of those sovereign tribal governments whose traditional lands and territories lie within the borders of the state of Washington as established under the laws of the United States.

(8) Nothing in this chapter limits, impairs, or nullifies the authority of a county sheriff to appoint duly commissioned state or federally certified tribal police officers as deputy sheriffs authorized to enforce the criminal and traffic laws of the state of Washington.

(9) Nothing in this act limits, impairs, or otherwise affects the existing authority under state or federal law of state or local law enforcement officers to enforce state law within the exterior boundaries of an Indian reservation or to

enter Indian country in fresh pursuit, as defined in RCW 10.93.120, of a person suspected of violating state law, where the officer would otherwise not have jurisdiction.

(10) An interlocal agreement pursuant to chapter 39.34 RCW is required between the sovereign tribal government and all local government law enforcement agencies that will have shared jurisdiction under this chapter prior to authorization taking effect under this chapter. Nothing in this act shall limit, impair, or otherwise affect the implementation of an interlocal agreement completed pursuant to chapter 39.34 RCW by the effective date of this act, between a sovereign tribal government and a local government law enforcement agency for cooperative law enforcement.

(a) Sovereign tribal governments that meet all of the requirements of subsection (2) of this section, but do not have an interlocal agreement pursuant to chapter 39.34 RCW and seek authorization under this chapter, may submit proof of liability insurance and training certification to the office of financial management. Upon confirmation of receipt of the information from the office of financial management, the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter have one year to enter into an interlocal agreement pursuant to chapter 39.34 RCW. If the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter are not able to reach agreement after one year, the sovereign tribal governments and the local government law enforcement agencies shall submit to binding arbitration pursuant to chapter 7.04A RCW with the American arbitration association or successor agency for purposes of completing an agreement prior to authorization going into effect.

(b) For the purposes of (a) of this subsection, those sovereign tribal government and local government law enforcement agencies that must enter into binding arbitration shall submit to last best offer arbitration. For purposes of accepting a last best offer, the arbitrator must consider other interlocal agreements between sovereign tribal governments and local law enforcement agencies in Washington state, any model policy developed by the Washington association of sheriffs and police chiefs or successor agency, and national best practices.

NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a new chapter in Title 10 RCW.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2008.

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 225

[Second Substitute House Bill 2514]

ORCA WHALES—PROTECTION FROM VESSELS

AN ACT Relating to protecting southern resident orca whales from disturbances by vessels; adding a new section to chapter 77.15 RCW; adding a new section to chapter 77.12 RCW; creating new sections; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the resident population of orca whales in Washington waters *(Orcinus orca)*, commonly referred to as the southern residents, are enormously significant to the state. These highly social, intelligent, and playful marine mammals, which the legislature designated as the official marine mammal of the state of Washington, serve as a symbol of the Pacific Northwest and illustrate the biological diversity and rich natural heritage that all Washington citizens and its visitors enjoy.

However, the legislature also finds that the southern resident orcas are currently in a serious decline. Southern residents experienced an almost twenty percent decline between 1996 and 2001. The federal government listed this orca population as depleted in 2003, and as an endangered species in 2005. The federal government has identified impacts from vessels as a significant threat to these marine mammals.

In 2006, after listing the southern resident orcas as endangered, the federal government designated critical orca habitat and released a proposed recovery plan for the southern resident orcas. The federal government has initiated the process to adopt orca conservation rules, but this process may be lengthy. Additionally, although existing whale and wildlife viewing guidelines are an excellent educational resource, these guidelines are voluntary measures that cannot be enforced.

Therefore, the legislature intends to protect southern resident orca whales from impacts from vessels, and to educate the public on how to reduce the risk of disturbing these important marine mammals.

NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, it is unlawful to:

(a) Approach, by any means, within three hundred feet of a southern resident orca whale *(Orcinus orca)*;

(b) Cause a vessel or other object to approach within three hundred feet of a southern resident orca whale;

(c) Intercept a southern resident orca whale. A person intercepts a southern resident orca whale when that person places a vessel or allows a vessel to remain in the path of a whale and the whale approaches within three hundred feet of that vessel;

(d) Fail to disengage the transmission of a vessel that is within three hundred feet of a southern resident orca whale, for which the vessel operator is strictly liable; or

(e) Feed a southern resident orca whale, for which any person feeding a southern resident orca whale is strictly liable.

(2) A person is exempt from subsection (1) of this section where:

(a) A reasonably prudent person in that person's position would determine that compliance with the requirements of subsection (1) of this section will threaten the safety of the vessel, the vessel's crew or passengers, or is not feasible due to vessel design limitations, or because the vessel is restricted in its ability to maneuver due to wind, current, tide, or weather;

(b) That person is lawfully participating in a commercial fishery and is engaged in actively setting, retrieving, or closely tending commercial fishing gear;

(c) That person is acting in the course of official duty for a state, federal, tribal, or local government agency; or

(d) That person is acting pursuant to and consistent with authorization from a state or federal government agency.

(3) Nothing in this section is intended to conflict with existing rules regarding safe operation of a vessel or vessel navigation rules.

(4) For the purpose of this section, "vessel" includes aircraft, canoes, fishing vessels, kayaks, personal watercraft, rafts, recreational vessels, tour boats, whale watching boats, vessels engaged in whale watching activities, or other small craft including power boats and sail boats.

(5) A violation of this section is a natural resource infraction punishable under chapter 7.84 RCW.

NEW SECTION. **Sec. 3.** The legislature encourages the state's law enforcement agencies to utilize existing statutes and regulations to protect southern resident orca whales from impacts from vessels, including the vessel operation and enforcement standards contained in chapter 79A.60 RCW.

NEW SECTION. **Sec. 4.** A new section is added to chapter 77.12 RCW to read as follows:

The department and the state parks and recreation commission shall disseminate information about section 2 of this act, whale and wildlife viewing guidelines, and other responsible wildlife viewing messages to educate Washington's citizens on how to reduce the risk of disturbing southern resident orca whales. The department and the state parks and recreation commission must, at minimum, disseminate this information on their internet sites and through appropriate agency publications, brochures, and other information sources. The department and the state parks and recreation commission shall also attempt to reach the state's boating community by coordinating with appropriate state and nongovernmental entities to provide this information at marinas, boat shows, boat dealers, during boating safety training courses, and in conjunction with vessel registration or licensing.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 8, 2008.
Passed by the Senate March 6, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 226

[House Bill 2542]

CIGARETTE TAXES—INDIAN TRIBES

AN ACT Relating to enforcement of cigarette taxes through regulation of stamped and unstamped cigarettes; amending RCW 82.24.080, 82.24.020, 82.24.110, and 82.24.250; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that under Article III of the treaty with the Yakamas of 1855, members of the Yakama Nation have the right to travel upon all public highways. It is the legislature's intent to honor the treaty rights of the Yakama Nation, while protecting the state's interest in collecting and enforcing its cigarette taxes.

Sec. 2. RCW 82.24.080 and 1995 c 278 s 5 are each amended to read as follows:

(1) It is the intent and purpose of this chapter to levy a tax on all of the articles taxed under this chapter, sold, used, consumed, handled, possessed, or distributed within this state and to collect the tax from the person who first sells, uses, consumes, handles, possesses (either physically or constructively, in accordance with RCW 82.24.020) or distributes them in the state. It is further the intent and purpose of this chapter that whenever any of the articles taxed under this chapter is given away for advertising or any other purpose, it shall be taxed in the same manner as if it were sold, used, consumed, handled, possessed, or distributed in this state.

(2) It is also the intent and purpose of this chapter that the tax shall be imposed at the time and place of the first taxable event and upon the first taxable person within this state. Any person whose activities would otherwise require payment of the tax imposed by subsection (1) of this section but who is exempt from the tax nevertheless has a precollection obligation for the tax that must be imposed on the first taxable event within this state. A precollection obligation may not be imposed upon a person exempt from the tax who sells, distributes, or transfers possession of cigarettes to another person who, by law, is exempt from the tax imposed by this chapter or upon whom the obligation for collection of the tax may not be imposed. Failure to pay the tax with respect to a taxable event shall not prevent tax liability from arising by reason of a subsequent taxable event.

(3) In the event of an increase in the rate of the tax imposed under this chapter, it is the intent of the legislature that the first person who sells, uses, consumes, handles, possesses, or distributes previously taxed articles after the effective date of the rate increase shall be liable for the additional tax, or its precollection obligation as required by this chapter, represented by the rate increase. The failure to pay the additional tax with respect to the first taxable event after the effective date of a rate increase shall not prevent tax liability for the additional tax from arising from a subsequent taxable event.

(4) It is the intent of the legislature that, in the absence of a cigarette tax contract or agreement under chapter 43.06 RCW, applicable taxes imposed by this chapter be collected on cigarettes sold by an Indian tribal organization to any person who is not an enrolled member of the federally recognized Indian tribe within whose jurisdiction the sale takes place consistent with collection of these taxes generally within the state. The legislature finds that applicable collection and enforcement measures under this chapter are reasonably necessary to prevent fraudulent transactions and place a minimal burden on the Indian tribal organization, pursuant to the United States supreme court's decision in *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980).

Sec. 3. RCW 82.24.020 and 2003 c 114 s 1 are each amended to read as follows:

(1) There is levied and there shall be collected as provided in this chapter, a tax upon the sale, use, consumption, handling, possession or distribution of all cigarettes, in an amount equal to the rate of eleven and one-half mills per cigarette.

(2) An additional tax is imposed upon the sale, use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to the rate of five and one-fourth mills per cigarette. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520 by the twenty-fifth day of the following month.

(3) An additional tax is imposed upon the sale, use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to the rate of ten mills per cigarette through June 30, 1994, eleven and one-fourth mills per cigarette for the period July 1, 1994, through June 30, 1995, twenty mills per cigarette for the period July 1, 1995, through June 30, 1996, and twenty and one-half mills per cigarette thereafter. All revenues collected during any month from this additional tax shall be deposited in the health services account created under RCW 43.72.900 by the twenty-fifth day of the following month.

(4) Wholesalers subject to the payment of this tax may, if they wish, absorb one-half mill per cigarette of the tax and not pass it on to purchasers without being in violation of this section or any other act relating to the sale or taxation of cigarettes.

(5) For purposes of this chapter, "possession" shall mean both (a) physical possession by the purchaser and, (b) when cigarettes are being transported to or held for the purchaser or his or her designee by a person other than the purchaser, constructive possession by the purchaser or his or her designee, which constructive possession shall be deemed to occur at the location of the cigarettes being so transported or held.

(6) In accordance with federal law and rules prescribed by the department, an enrolled member of a federally recognized Indian tribe may purchase cigarettes from an Indian tribal organization under the jurisdiction of the member's tribe for the member's own use exempt from the applicable taxes imposed by this chapter. Except as provided in subsection (7) of this section, any person, who purchases cigarettes from an Indian tribal organization and who is not an enrolled member of the federally recognized Indian tribe within whose jurisdiction the sale takes place, is not exempt from the applicable taxes imposed by this chapter.

(7) If the state enters into a cigarette tax contract or agreement with a federally recognized Indian tribe under chapter 43.06 RCW, the terms of the contract or agreement shall take precedence over any conflicting provisions of this chapter while the contract or agreement is in effect.

Sec. 4. RCW 82.24.110 and 2003 c 114 s 5 are each amended to read as follows:

(1) Each of the following acts is a gross misdemeanor and punishable as such:

(a) To sell, except as a licensed wholesaler engaged in interstate commerce as to the article being taxed herein, without the stamp first being affixed;

(b) To sell in Washington as a wholesaler to a retailer who does not possess and is required to possess a current cigarette retailer's license;

(c) To use or have in possession knowingly or intentionally any forged or counterfeit stamps;

(d) For any person other than the department of revenue or its duly authorized agent to sell any stamps not affixed to any of the articles taxed herein whether such stamps are genuine or counterfeit;

(e) For any person other than the department of revenue, its duly authorized agent, or a licensed wholesaler who has lawfully purchased or obtained them to possess any stamps not affixed to any of the articles taxed herein whether such stamps are genuine or counterfeit;

(f) To violate any of the provisions of this chapter;

((~~(f)~~)) (g) To violate any lawful rule made and published by the department of revenue or the board;

((~~(g)~~)) (h) To use any stamps more than once;

((~~(h)~~)) (i) To refuse to allow the department of revenue or its duly authorized agent, on demand, to make full inspection of any place of business where any of the articles herein taxed are sold or otherwise hinder or prevent such inspection;

((~~(i)~~)) (j) For any retailer to have in possession in any place of business any of the articles herein taxed, unless the same have the proper stamps attached;

((~~(j)~~)) (k) For any person to make, use, or present or exhibit to the department of revenue or its duly authorized agent, any invoice for any of the articles herein taxed which bears an untrue date or falsely states the nature or quantity of the goods therein invoiced;

((~~(k)~~)) (l) For any wholesaler or retailer or his or her agents or employees to fail to produce on demand of the department of revenue all invoices of all the articles herein taxed or stamps bought by him or her or received in his or her place of business within five years prior to such demand unless he or she can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond his or her control;

((~~(l)~~)) (m) For any person to receive in this state any shipment of any of the articles taxed herein, when the same are not stamped, for the purpose of avoiding payment of tax. It is presumed that persons other than dealers who purchase or receive shipments of unstamped cigarettes do so to avoid payment of the tax imposed herein;

((~~(m)~~)) (n) For any person to possess or transport in this state a quantity of ((~~sixty~~)) ten thousand cigarettes or less unless the proper stamps required by this chapter have been affixed or unless: (i) Notice of the possession or transportation has been given as required by RCW 82.24.250; (ii) the person transporting the cigarettes has in actual possession invoices or delivery tickets which show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported; and (iii) the cigarettes are consigned to or purchased by any person in this state who is authorized by this chapter to possess unstamped cigarettes in this state;

((~~(n)~~)) (o) For any person to possess or receive in this state a quantity of ten thousand cigarettes or less unless the proper stamps required by this chapter have been affixed or unless the person is authorized by this chapter to possess

unstamped cigarettes in this state and is in compliance with the requirements of this chapter; and

(p) To possess, sell, distribute, purchase, receive, ship, or transport within this state any container or package of cigarettes that does not comply with this chapter.

(2) It is unlawful for any person knowingly or intentionally to possess or to:

(a) Transport in this state a quantity in excess of ((~~sixty~~)) ten thousand cigarettes unless the proper stamps required by this chapter are affixed thereto or unless: (((~~(a)~~))) (i) Proper notice as required by RCW 82.24.250 has been given; (((~~(b)~~))) (ii) the person transporting the cigarettes actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported; and (((~~(c)~~))) (iii) the cigarettes are consigned to or purchased by a person in this state who is authorized by this chapter to possess unstamped cigarettes in this state; or

(b) Receive in this state a quantity in excess of ten thousand cigarettes unless the proper stamps required by this chapter are affixed thereto or unless the person is authorized by this chapter to possess unstamped cigarettes in this state and is in compliance with this chapter.

Violation of this ((~~section~~)) subsection (2) shall be punished as a class C felony under Title 9A RCW.

(3) All agents, employees, and others who aid, abet, or otherwise participate in any way in the violation of the provisions of this chapter or in any of the offenses described in this chapter shall be guilty and punishable as principals, to the same extent as any wholesaler or retailer or any other person violating this chapter.

(4) For purposes of this section, "person authorized by this chapter to possess unstamped cigarettes in this state" has the same meaning as in RCW 82.24.250.

Sec. 5. RCW 82.24.250 and 2003 c 114 s 8 are each amended to read as follows:

(1) No person other than: (a) A licensed wholesaler in the wholesaler's own vehicle; or (b) a person who has given notice to the board in advance of the commencement of transportation shall transport or cause to be transported in this state cigarettes not having the stamps affixed to the packages or containers.

(2) When transporting unstamped cigarettes, such persons shall have in their actual possession or cause to have in the actual possession of those persons transporting such cigarettes on their behalf invoices or delivery tickets for such cigarettes, which shall show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported.

(3) If ((~~the~~)) unstamped cigarettes are consigned to or purchased by any person in this state such purchaser or consignee must be a person who is authorized by this chapter to possess unstamped cigarettes in this state.

(4) In the absence of the notice of transportation required by this section or in the absence of such invoices or delivery tickets, or, if the name or address of the consignee or purchaser is falsified or if the purchaser or consignee is not a person authorized by this chapter to possess unstamped cigarettes, the cigarettes

so transported shall be deemed contraband subject to seizure and sale under the provisions of RCW 82.24.130.

(5) Transportation of cigarettes from a point outside this state to a point in some other state will not be considered a violation of this section provided that the person so transporting such cigarettes has in his possession adequate invoices or delivery tickets which give the true name and address of such out-of-state seller or consignor and such out-of-state purchaser or consignee.

(6) In any case where the department or its duly authorized agent, or any peace officer of the state, has knowledge or reasonable grounds to believe that any vehicle is transporting cigarettes in violation of this section, the department, such agent, or such police officer, is authorized to stop such vehicle and to inspect the same for contraband cigarettes.

(7) For purposes of this section, the term "person authorized by this chapter to possess unstamped cigarettes in this state" means:

(a) A wholesaler, licensed under Washington state law;

(b) The United States or an agency thereof; ((~~and~~))

(c) Any person, including an Indian tribal organization, who, after notice has been given to the board as provided in this section, brings or causes to be brought into the state unstamped cigarettes, if within a period of time after receipt of the cigarettes as the department determines by rule to be reasonably necessary for the purpose the person has caused stamps to be affixed in accordance with RCW 82.24.030 or otherwise made payment of the tax required by this chapter in the manner set forth in rules adopted by the department; and

(d) Any purchaser or consignee of unstamped cigarettes, including an Indian tribal organization, who has given notice to the board in advance of receiving unstamped cigarettes and who within a period of time after receipt of the cigarettes as the department determines by rule to be reasonably necessary for the purpose the person has caused stamps to be affixed in accordance with RCW 82.24.030 or otherwise made payment of the tax required by this chapter in the manner set forth in rules adopted by the department.

Nothing in this subsection (7) shall be construed as modifying RCW 82.24.050 or 82.24.110.

(8) Nothing in this section shall be construed as limiting any otherwise lawful activity under a cigarette tax compact pursuant to chapter 43.06 RCW.

(9) Nothing in this section shall be construed as limiting the right to travel upon all public highways under Article III of the treaty with the Yakamas of 1855.

Passed by the House February 18, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 227

[Second Substitute House Bill 2557]

TRIAL COURTS—OPERATION

AN ACT Relating to improving the operation of the trial courts; amending RCW 3.66.020, 12.40.010, 3.50.003, 3.50.020, 3.42.020, 3.34.110, and 3.50.075; adding new sections to chapter 3.50 RCW; adding a new section to chapter 35.20 RCW; adding a new section to chapter 3.46 RCW;

creating a new section; repealing RCW 3.46.010, 3.46.020, 3.46.030, 3.46.040, 3.46.050, 3.46.060, 3.46.063, 3.46.067, 3.46.070, 3.46.080, 3.46.090, 3.46.100, 3.46.110, 3.46.120, 3.46.130, 3.46.140, 3.46.145, 3.46.150, 3.46.160, 3.42.030, and 3.50.007; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

JURISDICTIONAL PROVISIONS

Sec. 1. RCW 3.66.020 and 2007 c 46 s 1 are each amended to read as follows:

If the value of the claim or the amount at issue does not exceed ((~~fifty~~)) seventy-five thousand dollars, exclusive of interest, costs, and attorneys' fees, the district court shall have jurisdiction and cognizance of the following civil actions and proceedings:

(1) Actions arising on contract for the recovery of money;

(2) Actions for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised by the answer involves the plaintiff's title to or possession of the same and actions to recover the possession of personal property;

(3) Actions for a penalty;

(4) Actions upon a bond conditioned for the payment of money, when the amount claimed does not exceed fifty thousand dollars, though the penalty of the bond exceeds that sum, the judgment to be given for the sum actually due, not exceeding the amount claimed in the complaint;

(5) Actions on an undertaking or surety bond taken by the court;

(6) Actions for damages for fraud in the sale, purchase, or exchange of personal property;

(7) Proceedings to take and enter judgment on confession of a defendant;

(8) Proceedings to issue writs of attachment, garnishment and replevin upon goods, chattels, moneys, and effects;

(9) Actions arising under the provisions of chapter 19.190 RCW;

(10) Proceedings to civilly enforce any money judgment entered in any municipal court or municipal department of a district court organized under the laws of this state; and

(11) All other actions and proceedings of which jurisdiction is specially conferred by statute, when the title to, or right of possession of, real property is not involved.

Sec. 2. RCW 12.40.010 and 2001 c 154 s 1 are each amended to read as follows:

In every district court there shall be created and organized by the court a department to be known as the "small claims department of the district court." The small claims department shall have jurisdiction, but not exclusive, in cases for the recovery of money only if the amount claimed does not exceed ((~~four~~)) five thousand dollars.

MUNICIPAL COURT CONTRACTING

Sec. 3. RCW 3.50.003 and 1984 c 258 s 125 are each amended to read as follows:

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

(1) "City" means an incorporated city or town.

(2) "Contracting city" means any city that contracts with a hosting jurisdiction for the delivery of judicial services.

(3) "Hosting jurisdiction" means a county or city designated in an interlocal agreement as receiving compensation for providing judicial services to a contracting city.

(4) "Mayor((,))" ((~~as used in this chapter,~~)) means the mayor, city manager, or other chief administrative officer of the city.

NEW SECTION. **Sec. 4.** A new section is added to chapter 3.50 RCW to read as follows:

A city may meet the requirements of RCW 39.34.180 by entering into an interlocal agreement with the county in which the city is located or with one or more cities.

Sec. 5. RCW 3.50.020 and 2005 c 282 s 14 are each amended to read as follows:

The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city ((~~in which the municipal court is located~~)) and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. A hosting jurisdiction shall have exclusive original criminal and other jurisdiction as described in this section for all matters filed by a contracting city. The municipal court shall also have the jurisdiction as conferred by statute. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. A municipal court participating in the program established by the administrative office of the courts pursuant to RCW 2.56.160 shall have jurisdiction to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any court of limited jurisdiction participating in the program.

COURT COMMISSIONERS

Sec. 6. RCW 3.42.020 and 1984 c 258 s 31 are each amended to read as follows:

Each district court commissioner shall have such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess and shall prescribe, except that when serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters, or jury trials in civil matters unless agreed to on the record by all parties.

Sec. 7. RCW 3.34.110 and 1984 c 258 s 17 are each amended to read as follows:

(1) A district ((~~judge~~)) court judicial officer shall not ((~~act as judge~~)) preside in any of the following cases:

((~~(1)~~)) (a) In an action to which the ((~~judge~~)) judicial officer is a party, or in which the ((~~judge~~)) judicial officer is directly interested, or in which the ((~~judge~~)) judicial officer has been an attorney for a party.

((~~(2)~~)) (b) When the ((~~judge~~)) judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the ((~~judge~~)) judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of ((~~judges shall be~~)) judicial officer is allowed each party ((~~under this subsection~~)) in an action or proceeding.

(2) When a ((~~judge~~)) judicial officer is disqualified under this section, the case shall be heard before another ((~~judge or judge pro tempore~~)) judicial officer of the same county.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

Sec. 8. RCW 3.50.075 and 1994 c 10 s 1 are each amended to read as follows:

(1) One or more court commissioners may be appointed by a judge of the municipal court.

(2) Each commissioner holds office at the pleasure of the appointing judge.

(3) A commissioner authorized to hear or dispose of cases must be a lawyer who is admitted to practice law in the state of Washington or a nonlawyer who has passed, by January 1, 2003, the qualifying examination for lay judges for courts of limited jurisdiction under RCW 3.34.060.

(4) On or after July 1, 2010, when serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters, or jury trials in civil matters unless agreed to on the record by all parties.

(5) A commissioner need not be a resident of the city or of the county in which the municipal court is created. When a court commissioner has not been appointed and the municipal court is presided over by a part-time appointed judge, the judge need not be a resident of the city or of the county in which the municipal court is created.

NEW SECTION. **Sec. 9.** A new section is added to chapter 3.50 RCW to read as follows:

(1) A municipal court judicial officer shall not preside in any of the following cases:

(a) In an action to which the judicial officer is a party, or in which the judicial officer is directly interested, or in which the judicial officer has been an attorney for a party.

(b) When the judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or

prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of judicial officer is allowed each party in an action or proceeding.

(2) When a judicial officer is disqualified under this section, the case shall be heard before another judicial officer of the municipality.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

NEW SECTION. **Sec. 10.** A new section is added to chapter 35.20 RCW to read as follows:

(1) A municipal court judicial officer shall not preside in any of the following cases:

(a) In an action to which the judicial officer is a party, or in which the judicial officer is directly interested, or in which the judicial officer has been an attorney for a party.

(b) When the judicial officer or one of the parties believes that the parties cannot have an impartial trial or hearing before the judicial officer. The judicial officer shall disqualify himself or herself under the provisions of this section if, before any discretionary ruling has been made, a party files an affidavit that the party cannot have a fair and impartial trial or hearing by reason of the interest or prejudice of the judicial officer. The following are not considered discretionary rulings: (i) The arrangement of the calendar; (ii) the setting of an action, motion, or proceeding for hearing or trial; (iii) the arraignment of the accused; or (iv) the fixing of bail and initially setting conditions of release. Only one change of judicial officer is allowed each party in an action or proceeding.

(2) When a judicial officer is disqualified under this section, the case shall be heard before another judicial officer of the municipality.

(3) For the purposes of this section, "judicial officer" means a judge, judge pro tempore, or court commissioner.

MUNICIPAL DEPARTMENTS

NEW SECTION. **Sec. 11.** A new section is added to chapter 3.46 RCW to read as follows:

A municipality operating a municipal department under this chapter prior to July 1, 2008, may continue to operate as if this act was not adopted. Such municipal departments shall remain subject to the provisions of this chapter as this chapter was written prior to the adoption of this act.

NEW SECTION. **Sec. 12.** The following acts or parts of acts are each repealed:

(1) RCW 3.46.010 (Municipal department authorized) and 1984 c 258 s 72 & 1961 c 299 s 35;

(2) RCW 3.46.020 (Judges) and 1987 c 3 s 1, 1984 c 258 s 73, & 1961 c 299 s 36;

(3) RCW 3.46.030 (Jurisdiction) and 2005 c 282 s 13, 2000 c 111 s 5, 1985 c 303 s 13, & 1961 c 299 s 37;

(4) RCW 3.46.040 (Petition) and 1984 c 258 s 74 & 1961 c 299 s 38;

(5) RCW 3.46.050 (Selection of full time judges) and 1975 c 33 s 2 & 1961 c 299 s 39;

(6) RCW 3.46.060 (Selection of part time judges) and 1984 c 258 s 75 & 1961 c 299 s 40;

(7) RCW 3.46.063 (Judicial positions—Filling—Circumstances permitted) and 1993 c 317 s 3;

(8) RCW 3.46.067 (Judges—Residency requirement) and 1993 c 317 s 5;

(9) RCW 3.46.070 (Election) and 1984 c 258 s 76 & 1961 c 299 s 41;

(10) RCW 3.46.080 (Term and removal) and 1984 c 258 s 77 & 1961 c 299 s 42;

(11) RCW 3.46.090 (Salary—City cost) and 1984 c 258 s 78, 1969 ex.s. c 66 s 5, & 1961 c 299 s 43;

(12) RCW 3.46.100 (Vacancy) and 1984 c 258 s 79 & 1961 c 299 s 44;

(13) RCW 3.46.110 (Night sessions) and 1961 c 299 s 45;

(14) RCW 3.46.120 (Revenue—Disposition—Interest) and 2004 c 15 s 7, 1995 c 291 s 2, 1988 c 169 s 1, 1985 c 389 s 3, 1984 c 258 s 303, 1975 1st ex.s. c 241 s 4, & 1961 c 299 s 46;

(15) RCW 3.46.130 (Facilities) and 1961 c 299 s 47;

(16) RCW 3.46.140 (Personnel) and 1961 c 299 s 48;

(17) RCW 3.46.145 (Court commissioners) and 1969 ex.s. c 66 s 6;

(18) RCW 3.46.150 (Termination of municipal department—Transfer agreement—Notice) and 2005 c 433 s 33, 2001 c 68 s 2, 1984 c 258 s 210, & 1961 c 299 s 49;

(19) RCW 3.46.160 (City trial court improvement account—Contributions to account by city—Use of funds) and 2005 c 457 s 2;

(20) RCW 3.42.030 (Transfer of cases to district judge) and 2000 c 164 s 1, 1984 c 258 s 32, & 1961 c 299 s 33; and

(21) RCW 3.50.007 (Cities and towns of four hundred thousand or less to operate municipal court under this chapter or chapter 3.46 RCW—Municipal judges in office on July 1, 1984—Terms) and 1984 c 258 s 102.

MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 13.** This act takes effect July 1, 2008.

NEW SECTION. **Sec. 14.** Subheadings used in this act are not any part of the law.

Passed by the House March 8, 2008.
Passed by the Senate March 5, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 228

[House Bill 2650]

CIGARETTE TAX AGREEMENT—YAKAMA NATION

AN ACT Relating to authorizing a cigarette tax agreement between the state of Washington and the Yakama Nation; amending RCW 82.08.0316 and 82.12.0316; adding a new section to chapter 43.06 RCW; adding a new section to chapter 82.24 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.06 RCW to read as follows:

(1) The legislature finds that entering into a cigarette tax agreement with the Yakama Nation is a positive step and that such an agreement will support a stable and orderly environment on the Yakima Reservation for regulation of cigarette sales. The legislature further finds that the very special circumstances of the Yakama Nation pursuant to the Treaty with the Yakamas of 1855 (12 Stat. 951) support a cigarette tax agreement that reflects those circumstances. The legislature also finds that the provisions of the agreement with the Yakama Nation authorized by this act are reasonably necessary to prevent fraudulent transactions and place a minimal burden on the Yakama Nation, pursuant to the United States supreme court's decision in *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980).

It is the intent of the legislature that the cigarette tax agreement with the Yakama Nation reflects the uniqueness of the Yakama Nation's Treaty through specific terms that govern pricing of cigarettes, tribal cigarette tax revenue, information sharing, and administration of the agreement.

(2) For purposes of this section:

(a) "Cigarette" has the same meaning as in chapter 82.24 RCW; and

(b) "Tribal retailer" means a cigarette retailer as that term is defined in RCW 82.24.010 that is licensed by and located within the jurisdiction of the Yakama Nation and is wholly owned by the Yakama Nation or any of its enrolled members.

(3) The governor may enter into a cigarette tax agreement with the Yakama Nation, a federally recognized Indian tribe located within the geographical boundaries of the state of Washington, concerning the sale of cigarettes, subject to the provisions of this section. The governor may delegate the authority to negotiate the agreement to the department of revenue.

(4) The agreement must be for a renewable period of no more than eight years.

(5) All cigarettes possessed or sold by tribal retailers must be subject to the agreement, except cigarettes manufactured within the jurisdiction of the Yakama Nation by the Yakama Nation or its enrolled members.

(6) The agreement must allow the Yakama Nation to exempt its enrolled members from the tribal cigarette tax imposed under subsection (7) of this section.

(a) Sales of cigarettes exempt under this subsection must be subject to the requirements of subsection (9) of this section.

(b) The exemption must be provided only at the point of sale and reimbursement provided to the tribal retailer by the Yakama Nation.

(7) The agreement must require the Yakama Nation to impose and maintain in effect on the sale of cigarettes by tribal retailers a tax as provided in this subsection.

(a) The rate of tax will be expressed in dollars and cents and must be the percentage of tax imposed by the state under chapter 82.24 RCW for the period of the agreement as stated here:

(i) Eighty percent during the first six years;

(ii) Eighty-four percent during the seventh year; and

(iii) Eighty-seven and six-tenths percent during the eighth year.

(b) The tax must be imposed on each carton, or portion of a carton, of cigarettes, with ten packs per carton and twenty cigarettes per pack being the industry standard, and prorated for cartons and packs that are not standard.

(c) The tax must be in lieu of the combined state and local sales and use taxes, and state cigarette taxes, and, as provided in sections 2 through 4 of this act, the taxes imposed by chapters 82.08, 82.12, and 82.24 RCW do not apply during the term of the agreement on any transaction governed by the agreement.

(d) Throughout the term of the agreement and any renewal of the agreement, the tax must increase or decrease in correspondence with the state cigarette tax by applying the percentages in (a) of this subsection.

(8) The revenue generated by the tax imposed under subsection (7) of this section must be used by the Yakama Nation for essential government services, as that term is defined in RCW 43.06.455.

(9) All cigarettes possessed or sold by a tribal retailer must bear a tribal cigarette tax stamp as provided in this subsection.

(a) The Yakama Nation may act as its own stamp vendor, subject to meeting reasonable requirements for internal controls.

(b) The stamps must have serial numbers or other discrete identification that allow stamps to be traced to their source.

(10) The price paid by the tribal retailer to the wholesaler must not be less than the total of the price paid by the Yakama Nation or other wholesaler and the tax imposed under subsection (7) of this section.

(11) The retail selling price of cigarettes sold by tribal retailers must not be less than the price paid by them under subsection (10) of this section.

(12) Tribal retailers must not sell or give, or permit to be sold or given, cigarettes to any person under the age of eighteen years.

(13) The authority and the individual and joint responsibility of the Yakama Nation, the department of revenue, and the liquor control board for administration and enforcement must be specified in the agreement including, but not limited to, requirements regarding transport of cigarettes, keeping of records, reporting, notice, inspection, audit, and mutual exchange of information.

(a) Requirements must provide for sharing of information regarding transport of cigarettes in the state of Washington by the Yakama Nation or its enrolled members, reporting of information on sales to customers located outside the jurisdiction of the Yakama Nation, and authority for unannounced inspection by the state of tribal retailers to verify compliance with stamping and pricing provisions.

(b) Information received by the state or open to state review under the terms of the agreement is subject to RCW 82.32.330.

(14) The agreement must provide for resolution of disputes using a nonjudicial process, such as mediation, and establish a dispute resolution protocol that includes the following elements:

(a) A procedure for notifying the other party that a violation has occurred;

(b) A procedure for establishing whether a violation has in fact occurred;

(c) An opportunity to correct the violation;

(d) A procedure for terminating the agreement in the event of a failure to correct the violation, such termination subject to mediation should the terms of the agreement so allow; and

(e) Termination of the agreement for cause.

(15) The agreement may not include any provisions that impact the state's share of the master settlement agreement or concern redistribution of the state's proceeds under the master settlement agreement.

(16) The department of revenue may share with the Yakama Nation tax information under RCW 82.32.330 that is necessary for the Yakama Nation's compliance with the agreement.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.24 RCW to read as follows:

The taxes imposed by this chapter do not apply to the sale, use, consumption, handling, possession, or distribution of cigarettes by a tribal retailer during the effective period of a cigarette tax agreement under section 1 of this act.

Sec. 3. RCW 82.08.0316 and 2005 c 11 s 3 are each amended to read as follows:

The tax levied by RCW 82.08.020 does not apply to sales of cigarettes by an Indian retailer during the effective period of a cigarette tax contract subject to RCW 43.06.455 or a cigarette tax agreement under RCW 43.06.465 or section 1 of this act.

Sec. 4. RCW 82.12.0316 and 2005 c 11 s 4 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of cigarettes sold by an Indian retailer during the effective period of a cigarette tax contract subject to RCW 43.06.455 or a cigarette tax agreement under RCW 43.06.465 or section 1 of this act.

NEW SECTION. **Sec. 5.** In December 2007 it was announced that a cigarette tax agreement between the state of Washington and the Yakama Nation had been reached in principle. The legislature must provide authorization to the governor to sign such an agreement. Because the parties have reached an agreement in principle, time for implementation is of the essence.

NEW SECTION. **Sec. 6.** 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.

Passed by the House February 15, 2008.
Passed by the Senate March 6, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 229

[House Bill 2652]

STATE AND PUBLIC EMPLOYEES—BENEFIT PLANS—PRETAX PAYMENTS

AN ACT Relating to coordination of benefit plans that allow state and public employees to pay on a pretax basis to participate in benefits offered under sections 125 and 129 of the internal revenue code, including transfer of the dependent care assistance program to the health care

authority; amending RCW 41.05.300, 41.05.310, 41.05.320, 41.05.123, 41.05.330, 41.05.340, 41.05.350, 41.05.360, 28B.50.874, and 41.50.780; reenacting and amending RCW 41.05.011; adding a new section to chapter 41.05 RCW; creating a new section; repealing RCW 41.04.600, 41.04.605, 41.04.610, 41.04.615, 41.04.620, 41.04.625, 41.04.630, 41.04.635, 41.04.640, and 41.04.645; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.05 RCW to read as follows:

(1) All powers, duties, and functions of the department of retirement systems pertaining to the dependent care assistance program are transferred to the health care authority.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of retirement systems pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the health care authority. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the health care authority.

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

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

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

(5) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

Sec. 2. RCW 41.05.011 and 2007 c 488 s 2 and 2007 c 114 s 2 are each reenacted and amended to read as follows:

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

(1) "Administrator" means the administrator of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all full-time and career seasonal employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; and includes any or all part-time and temporary employees under the terms and conditions established under this chapter by the authority; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature or of the legislative authority of any county, city, or town who are elected to office after February 20, 1970. "Employee" also includes: (a) Employees of a county, municipality, or other political subdivision of the state if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; and (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g).

(7) "Board" means the public employees' benefits board established under RCW 41.05.055.

(8) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(9) "((~~Benefits contribution~~)) Premium payment plan" means a ((~~premium only contribution plan, a medical flexible spending arrangement, or a cafeteria~~)) benefit plan whereby state and public employees may ((~~agree to a contribution to benefit costs which will allow the employee to participate in benefits offered~~)) pay their share of group health plan premiums with pretax dollars as provided in

the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(10) "Salary" means a state employee's monthly salary or wages.

(11) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the ((~~benefits contribution~~)) salary reduction plan.

(12) "Plan year" means the time period established by the authority.

(13) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(11) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(40), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(14) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(15) "Employer" means the state of Washington.

(16) "Employing agency" means a division, department, or separate agency of state government; a county, municipality, school district, educational service district, or other political subdivision; and a tribal government covered by this chapter.

(17) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

(18) "Dependent care assistance program" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(19) "Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(20) "Medical flexible spending arrangement" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

Sec. 3. RCW 41.05.300 and 1995 1st sp.s. c 6 s 11 are each amended to read as follows:

(1) The state of Washington may enter into ((~~benefits contribution plans~~)) salary reduction agreements with employees of the state pursuant to the internal revenue code, ((~~26 U.S.C. Sec. 125,~~)) for the purpose of making it possible for employees of the state to select on a "before-tax basis" certain taxable and nontaxable benefits ((~~pursuant to 26 U.S.C. Sec. 125~~)). The purpose of the ((~~benefits contribution~~)) salary reduction plan established in this chapter is to attract and retain individuals in governmental service by permitting them to enter into agreements with the state to provide for benefits pursuant to 26 U.S.C. Sec. 125, 26 U.S.C. Sec. 129, and other applicable sections of the internal revenue code.

(2) Nothing in the ((~~benefits contribution~~)) salary reduction plan constitutes an employment agreement between the participant and the state, and nothing contained in the participant's ((~~benefits contribution~~)) salary reduction agreement, the plan, this section, or RCW 41.05.123, 41.05.310 through 41.05.360, and section 1 of this act gives a participant any right to be retained in state employment.

Sec. 4. RCW 41.05.310 and 1995 1st sp.s. c 6 s 12 are each amended to read as follows:

The authority shall have responsibility for the formulation and adoption of a plan, policies, and procedures designed to guide, direct, and administer the ((~~benefits contribution~~)) salary reduction plan. For the plan year beginning January 1, 1996, the administrator may establish a premium only ((~~contribution~~)) plan. Expansion of the ((~~benefits contribution~~)) salary reduction plan ((~~to a medical flexible spending arrangement~~)) or cafeteria plan during subsequent plan years shall be subject to approval by the director of the office of financial management.

(1) A plan document describing the benefits ((~~contribution~~)) offered under the salary reduction plan shall be adopted and administered by the authority. The authority shall represent the state in all matters concerning the administration of the plan. The state, through the authority, may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist the authority or perform the administrative functions necessary in carrying out the purposes of RCW 41.05.123, 41.05.300 through 41.05.350, and section 1 of this act.

(2) The authority shall formulate and establish policies and procedures for the administration of the ((~~benefits contribution~~)) salary reduction plan that are consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service as they may apply to the benefits offered to participants under the plan.

(3) Every action taken by the authority in administering RCW 41.05.123, 41.05.300 through 41.05.350, and section 1 of this act shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The authority shall be presumed to have exercised reasonable care, diligence, and prudence and to have acted impartially as to all persons interested unless the contrary be proved by clear and convincing affirmative evidence.

Sec. 5. RCW 41.05.320 and 2007 c 492 s 6 are each amended to read as follows:

(1) Elected officials and ((~~all~~)) permanent employees of the state are eligible to participate in the ((~~benefits contribution~~)) salary reduction plan and ((~~contribute amount(s)~~)) reduce their salary by agreement with the authority. The authority may adopt rules to: (a) Limit the participation of employing agencies and their employees in the plan; and (b) permit participation in the plan by temporary employees of the state.

(2) Persons eligible under subsection (1) of this section may enter into ((~~benefits contribution~~)) salary reduction agreements with the state.

(3)(a) ((~~In the initial year of the medical flexible spending arrangement or cafeteria plan, if authorized, an eligible person may become a participant after the adoption of the plan and before its effective date by agreeing to have a portion of his or her gross salary contributed and deposited into a health care and other benefits account to be used for reimbursement of expenses covered by the plan.~~

~~(b) After the initial year of the medical flexible spending arrangement or cafeteria plan, if authorized,~~)) An eligible person may become a participant of the salary reduction plan for a full plan year((~~,~~)) with annual benefit plan selection for each new plan year made before the beginning of the plan year, as determined by the authority, or upon becoming eligible.

(((~~(c)~~))) (b) Once an eligible person elects to participate in the salary reduction plan and determines the amount ((~~of~~)) his or her gross salary ((~~that he or she~~)) shall ((~~contribute~~)) be reduced and the benefit plan for which the funds are to be used during the plan year ((~~is determined~~)), the agreement shall be irrevocable and may not be amended during the plan year except as provided in (((~~(d)~~))) (c) of this subsection. Prior to making an election to participate in the ((~~benefits contribution~~)) salary reduction plan, the eligible person shall be informed in writing of all the benefits and ((~~contributions~~)) reductions that will occur as a result of such election.

(((~~(d)~~))) (c) The authority shall provide in the ((~~benefits contribution~~)) salary reduction plan that a participant may enroll, terminate, or change his or her election after the plan year has begun if there is a significant change in a participant's status, as provided by 26 U.S.C. Sec. 125 and the regulations adopted under that section and defined by the authority.

(4) The authority shall establish as part of the ((~~benefits contribution~~)) salary reduction plan the procedures for and effect of withdrawal from the plan by reason of retirement, death, leave of absence, or termination of employment. To the extent possible under federal law, the authority shall protect participants from forfeiture of rights under the plan.

(5) Any ((~~contribution~~)) reduction of salary under the ((~~benefits contribution~~)) salary reduction plan shall ((~~continue to be included as~~)) not reduce the reportable compensation for the purpose of computing the state retirement and pension benefits earned by the employee pursuant to chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 43.43 RCW.

Sec. 6. RCW 41.05.123 and 2005 c 143 s 2 are each amended to read as follows:

(1) The ((~~medical~~)) flexible spending administrative account is created in the custody of the state treasurer. All receipts from the following must be deposited in the account: (a) Revenues from employing agencies for costs associated with operating the medical flexible spending arrangement program

and the dependent care assistance program provided through the salary reduction plan authorized under this chapter; (b) funds transferred from the dependent care administrative account; and ((~~(b)~~)) (c) unclaimed moneys at the end of the plan year after all timely submitted claims for that plan year have been processed. Expenditures from the account may be used only for administrative and other expenses related to operating the medical flexible spending ((~~account~~)) arrangement program and the dependent care assistance program provided through the salary reduction plan authorized under this chapter. Only the administrator or the administrator's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The salary reduction account is established in the state treasury. Employee salary reductions paid to reimburse participants or service providers for benefits provided by the medical flexible spending arrangement program and the dependent care assistance program provided through the salary reduction plan authorized under this chapter shall be paid from the salary reduction account. The funds held by the state to pay for benefits provided by the medical flexible spending arrangement program and the dependent care assistance program provided through the salary reduction plan authorized under this chapter shall be deposited in the salary reduction account. Unclaimed moneys remaining in the salary reduction account at the end of a plan year after all timely submitted claims for that plan year have been processed shall become a part of the flexible spending administrative account. Only the administrator or the administrator's designee may authorize expenditures from the account. The account is not subject to allotment procedures under chapter 43.88 RCW and an appropriation is not required for expenditures.

(3) Program claims reserves and money necessary for start-up costs transferred from the public employees' and retirees' insurance account established in RCW 41.05.120 may be deposited in the flexible spending administrative account. Moneys in excess of the amount necessary for administrative and operating expenses of the medical flexible spending ((~~account~~)) arrangement program may be transferred to the public employees' and retirees' insurance account.

(((~~3~~))) (4) The authority may periodically bill employing agencies for costs associated with operating the medical flexible spending ((~~account~~)) arrangement program and the dependent care assistance program provided through the salary reduction plan authorized under this chapter.

Sec. 7. RCW 41.05.330 and 1995 1st sp.s. c 6 s 14 are each amended to read as follows:

The authority shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of a ((~~benefits contribution~~)) salary reduction plan created under RCW 41.05.300.

Sec. 8. RCW 41.05.340 and 1995 1st sp.s. c 6 s 15 are each amended to read as follows:

(1) The state may terminate the ((~~benefits contribution~~)) salary reduction plan at the end of the plan year or upon notification of federal action affecting the status of the plan.

(2) The authority may amend the ((~~benefits contribution~~)) salary reduction plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participants' ((~~benefits contribution~~)) accounts.

Sec. 9. RCW 41.05.350 and 1995 1st sp.s. c 6 s 16 are each amended to read as follows:

The authority shall adopt rules necessary to implement RCW 41.05.123, 41.05.300 through 41.05.340, and section 1 of this act.

Sec. 10. RCW 41.05.360 and 1995 1st sp.s. c 6 s 17 are each amended to read as follows:

RCW 41.05.123, 41.05.300 through 41.05.350, and section 1 of this act shall be construed to effectuate the purposes of 26 U.S.C. Sec. 125 and other applicable sections of the internal revenue code as required.

Sec. 11. RCW 28B.50.874 and 1998 c 116 s 14 are each amended to read as follows:

When the state system of community and technical colleges assumes administrative control of the vocational-technical institutes, personnel employed by the vocational-technical institutes shall:

(1) Suffer no reduction in compensation, benefits, seniority, or employment status. After September 1, 1991, classified employees shall continue to be covered by chapter 41.56 RCW and faculty members and administrators shall be covered by chapter 28B.50 RCW;

(2) To the extent applicable to faculty members, any faculty currently employed on a "continuing contract" basis under RCW 28A.405.210 be awarded tenure pursuant to RCW 28B.50.851 through 28B.50.873, except for any faculty members who are provisional employees under RCW 28A.405.220;

(3) Be eligible to participate in the health care and other insurance plans provided by the health care authority and the ((~~state~~)) public employees' benefits board pursuant to chapter 41.05 RCW;

(4) Be eligible to participate in old age annuities or retirement income plans under the rules of the state board for community and technical colleges pursuant to RCW 28B.10.400 or the teachers' retirement system plan 1 for personnel employed before July 1, 1977, or plan 2 for personnel employed after July 1, 1977, under chapter 41.32 RCW; however, no affected vocational-technical institute employee shall be required to choose from among any available retirement plan options prior to six months after September 1, 1991;

(5) Have transferred to their new administrative college district all accrued sick and vacation leave and thereafter shall earn and use all such leave under the rule established pursuant to RCW 28B.50.551;

(6) Be eligible to participate in the deferred compensation plan and ((~~the dependent care~~)) programs pursuant to RCW ((~~41.04.600~~)) 41.05.123, 41.05.300 through 41.05.360, and section 1 of this act under the applicable rules.

An exclusive bargaining representative certified to represent a bargaining unit covering employees of a vocational technical institute on September 1, 1991, shall remain the exclusive representative of such employees thereafter until and unless such representative is replaced or decertified in accordance with state law.

Any collective bargaining agreement in effect on June 30, 1991, shall remain in effect as it applies to employees of vocational technical institutes until its expiration or renewal date or until renegotiated or renewed in accordance with chapter 28B.52 or 41.56 RCW. After the expiration date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement, as it applies to employees of vocational-technical institutes, shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termination date stated in the agreement. The board of trustees and the employees may mutually agree to continue the terms and conditions of the agreement beyond the one year extension. However, nothing in this section shall be construed to deny any employee right granted under chapter 28B.52 or 41.56 RCW. Labor relations processes and agreements covering faculty members of vocational technical institutes after September 1, 1991, shall be governed by chapter 28B.52 RCW. Labor relations processes and agreements covering classified employees of vocational technical institutes after September 1, 1991, shall continue to be governed by chapter 41.56 RCW.

Sec. 12. RCW 41.50.780 and 2001 c 181 s 2 are each amended to read as follows:

(1) The deferred compensation principal account is hereby created in the state treasury.

(2) The amount of compensation deferred by employees under agreements entered into under the authority contained in RCW 41.50.770 shall be paid into the deferred compensation principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the department. The deferred compensation principal account shall be used to carry out the purposes of RCW 41.50.770. All eligible state employees shall be given the opportunity to participate in agreements entered into by the department under RCW 41.50.770. State agencies shall cooperate with the department in providing employees with the opportunity to participate.

(3) Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the department under RCW 41.50.770, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the deferred compensation principal account shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein.

(4) All moneys in the state deferred compensation principal account and the state deferred compensation administrative account, all property and rights purchased therewith, and all income attributable thereto, shall be held in trust by the state investment board, as set forth under RCW 43.33A.030, for the exclusive benefit of the state deferred compensation plan's participants and their beneficiaries. Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments under the plan. These payments and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or

execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law.

(5) The state investment board has the full power to invest moneys in the state deferred compensation principal account and the state deferred compensation administrative account in accordance with RCW 43.84.150, 43.33A.140, and 41.50.770, and cumulative investment directions received pursuant to RCW 41.50.770. All investment and operating costs of the state investment board associated with the investment of the deferred compensation plan assets shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation principal account.

(6)(a) No state board or commission, agency, or any officer, employee, or member thereof is liable for any loss or deficiency resulting from participant investments selected pursuant to RCW 41.50.770(3).

(b) Neither the employee retirement benefits board nor the state investment board, nor any officer, employee, or member thereof is liable for any loss or deficiency resulting from reasonable efforts to implement investment directions pursuant to RCW 41.50.770(3).

(7) The deferred compensation administrative account is hereby created in the state treasury. All expenses of the department pertaining to the deferred compensation plan including staffing and administrative expenses shall be paid out of the deferred compensation administrative account. Any excess balances credited to this account over administrative expenses disbursed from this account shall be transferred to the deferred compensation principal account at such time and in such amounts as may be determined by the department with the approval of the office of financial management. Any deficiency in the deferred compensation administrative account caused by an excess of administrative expenses disbursed from this account shall be transferred to this account from the deferred compensation principal account.

(8) ((~~In addition to the duties specified in this section and RCW 41.50.770, the department shall administer the salary reduction plan established in RCW 41.04.600 through 41.04.645.~~

~~(9)~~))(a)(i) The department shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.50.770 and this section. The department shall account for and report on the investment of state deferred compensation plan assets or may enter into an agreement with the state investment board for such accounting and reporting.

(ii) The department's duties related to individual participant accounts include conducting the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iii) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.

(b)(i) The department's duties under (a)(ii) of this subsection do not limit the authority of the state investment board to conduct its responsibilities for asset management and balancing of the deferred compensation funds.

(ii) The state investment board has sole responsibility for contracting with outside investment firms to provide investment management for the deferred compensation funds and shall manage the performance of investment managers under those contracts.

(c) The state treasurer shall designate and define the terms of engagement for the custodial banks.

((~~(10)~~)) (9) The department may adopt rules necessary to carry out its responsibilities under RCW 41.50.770 and this section.

NEW SECTION. **Sec. 13.** On the effective date of this section, the treasurer shall transfer all funds in the dependent care administrative account into the flexible spending administrative account.

NEW SECTION. **Sec. 14.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(1) RCW 41.04.600 (Dependent care—Salary reduction plan—Purpose) and 1987 c 475 s 1;

(2) RCW 41.04.605 (Dependent care—Salary reduction plan—Definitions) and 1998 c 116 s 3 & 1987 c 475 s 2;

(3) RCW 41.04.610 (Dependent care—Salary reduction plan—Powers and duties of department) and 1998 c 116 s 4 & 1987 c 475 s 3;

(4) RCW 41.04.615 (Dependent care—Salary reduction plan document—Funds, fees, and appropriations—Dependent care administrative account created—Presumptions) and 1998 c 116 s 5, 1993 c 34 s 1, & 1987 c 475 s 4;

(5) RCW 41.04.620 (Dependent care—Salary reduction plan—Participation by eligible persons—Enrollment, termination, or modification) and 1998 c 116 s 6 & 1987 c 475 s 5;

(6) RCW 41.04.625 (Dependent care—Salary reduction account) and 1987 c 475 s 6;

(7) RCW 41.04.630 (Dependent care—Salary reduction plan—Records and reports) and 1998 c 245 s 36, 1998 c 116 s 7, & 1987 c 475 s 7;

(8) RCW 41.04.635 (Dependent care—Salary reduction plan—Termination or amendment of plan) and 1998 c 116 s 8 & 1987 c 475 s 8;

(9) RCW 41.04.640 (Dependent care—Salary reduction plan—Adoption of rules) and 1998 c 116 s 9 & 1987 c 475 s 9; and

(10) RCW 41.04.645 (Dependent care—Salary reduction plan—Construction of statutes) and 1987 c 475 s 10.

NEW SECTION. **Sec. 15.** This act takes effect January 1, 2009.

Passed by the House February 13, 2008.
Passed by the Senate March 13, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 230

[Second Substitute House Bill 2714]

OFFENDER REGISTRATION—FAILURE TO REGISTER—PENALTIES

AN ACT Relating to making failure to register as a sex offender or kidnapping offender a class B felony; amending RCW 13.40.0357; reenacting and amending RCW 9A.44.130 and 9.94A.030; creating a new section; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every

teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and

health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex

offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and

enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (11) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall

promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) All offenders who are required to register pursuant to this section who have a fixed residence and who are designated as a risk level II or III must report, in person, every ninety days to the sheriff of the county where he or she is registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. An offender who complies with the ninety-day reporting requirement with no violations for a period of at least five years in the community may petition the superior court to be relieved of the duty to report every ninety days. The petition shall be made to the superior court in the county where the offender resides or reports under this section. The prosecuting attorney of the county shall be named and served as respondent in any such petition. The court shall relieve the petitioner of the duty to report if the petitioner shows, by a preponderance of the evidence, that the petitioner has complied with the reporting requirement for a period of at least five years and that the offender has not been convicted of a criminal violation of this section for a period of at least five years, and the court determines that the reporting no longer serves a public safety purpose. Failure to report, as specified, constitutes

a violation of this section and is punishable as provided in subsection (11) of this section.

(8) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(9) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

(10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (10)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (10)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution

includes any secondary school, trade or professional institution, or institution of higher education.

(11)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class ((~~C~~)) B felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (10)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (10)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (10)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(13) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 2. RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed

on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(9) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(11) "Confinement" means total or partial confinement.

(12) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(13) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(14) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in

an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for

supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

(30) "Nonviolent offense" means an offense which is not a violent offense.

(31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(33) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this

state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (33)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(35) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

(36) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(37) "Public school" has the same meaning as in RCW 28A.150.010.

(38) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(39) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of

the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

(40) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(41) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(42) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130((~~(11)~~)) (12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(43) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(44) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(45) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(46) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(47) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(48) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(49) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(50) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(51) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(52) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(53) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 3. RCW 13.40.0357 and 2007 c 199 s 11 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
	Arson and Malicious Mischief	
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090(2) (a) and (c))	E
E	Malicious Mischief 3 (9A.48.090(2)(b))	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
	Assault and Other Crimes Involving Physical Harm	
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045)	C+
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E

C+	Custodial Assault (9A.36.100)	D+
	Burglary and Trespass	
B+	Burglary 1 (9A.52.020)	C+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
	Drugs	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C

C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	Firearms and Weapons	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(iii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	Homicide	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	Kidnapping	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	Obstructing Governmental Operation	
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	Public Disturbance	
C+	Riot with Weapon (9A.84.010(2)(b))	D+
D+	Riot Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+

B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
A-	Child Molestation 1 (9A.44.083)	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.130)	D
	Theft, Robbery, Extortion, and Forgery	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E

C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	Other	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1[1] (9A.76.110)	C
C	Escape 2[1] (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)[2]	V

[1]Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

[2]If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, D, or RCW 13.40.167.

OPTION A
JUVENILE OFFENDER SENTENCING
GRID STANDARD RANGE

Current Offense Category	0	1	2	3	4 or more
A+	180 WEEKS TO AGE 21 YEARS				
A	103 WEEKS TO 129 WEEKS				
A-	15-36 WEEKS EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
B+	15-36 WEEKS		52-65 WEEKS	80-100 WEEKS	103-129 WEEKS
B	LOCAL SANCTIONS (LS)		15-36 WEEKS		52-65 WEEKS
C+	LS			15-36 WEEKS	
C	LS				15-36 WEEKS
D+	LS	Local Sanctions: 0 to 30 Days 0 to 12 Months Community Supervision 0 to 150 Hours Community Restitution			
D	LS	$0 to $500 Fine			
E	LS				

PRIOR ADJUDICATIONS

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B
SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

(a) Adjudicated of an A+ offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060); or

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential burglary (RCW 9A.52.025), burglary in the second degree (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a witness (RCW 9A.72.110), violation of the uniform controlled substances act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Ordered to serve a disposition for a firearm violation under RCW 13.40.193; or

(d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

OR

OPTION C
CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION D
MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

NEW SECTION. **Sec. 4.** (1) The sex offender policy board, as created by chapter . . . (Substitute Senate Bill No. 6596), Laws of 2008, shall review and make recommendations for changes to the statutory requirements relating to sex offender and kidnapping offender registration and notification. The review and recommendations shall include, but are not limited to:

(a) The appropriate class of felony and sentencing designations for a conviction of the failure to register;

(b) The appropriate groups and classes of adult offenders who should be required to register;

(c) The appropriate groups and classes of juvenile offenders who should be required to register;

(d) When a sex offender or kidnapping offender should be relieved of registration or notification requirements and the process for termination of those obligations; and

(e) Simplification of the statutory language to allow the department of corrections, law enforcement, and offenders to more easily identify registration and notification requirements.

(2) In formulating its recommendations, the board shall review the experience of other jurisdictions and any available evidence-based research to ensure that its recommendations have the maximum impact on public safety.

(3) The board shall report to the governor and the relevant committees of the legislature no later than November 1, 2009.

NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act take effect ninety days after adjournment sine die of the 2010 legislative session.

Passed by the House March 12, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 231

[House Bill 2719]

OFFENDER SENTENCING—ACCURACY

AN ACT Relating to ensuring that offenders receive accurate sentences; amending RCW 9.94A.500, 9.94A.530, 9.94A.737, 9.94A.740, 9.94A.501, 9.94A.505, 9.94A.610, 9.94A.612, 9.94A.625, 9.94A.650, 9.94A.670, 9.94A.690, 9.94A.728, 9.94A.760, 9.94A.775, 9.94A.780, 9.94A.820, 4.24.556, 9.95.017, 9.95.064, 9.95.110, 9.95.123, 9.95.420, 9.95.440, 46.61.524, 72.09.015, 72.09.270, 72.09.345, and 72.09.580; reenacting and amending RCW 9.94A.525, 9.94A.030, 9.94A.660, and 9.94A.712; adding new sections to chapter 9.94A RCW; adding new sections to chapter 72.09 RCW; adding a new chapter to Title 9 RCW; creating new sections; recodifying RCW 9.94A.628, 9.94A.634, 9.94A.700, 9.94A.705, 9.94A.710, 9.94A.610, 9.94A.612, 9.94A.614, 9.94A.616, 9.94A.618, and 9.94A.620; repealing RCW 9.94A.545, 9.94A.713,

9.94A.715, 9.94A.720, 9.94A.800, 9.94A.830, and 79A.60.070; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** It is the legislature's intent to ensure that offenders receive accurate sentences that are based on their actual, complete criminal history. Accurate sentences further the sentencing reform act's goals of:

(1) Ensuring that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;

(2) Ensuring punishment that is just; and

(3) Ensuring that sentences are commensurate with the punishment imposed on others for committing similar offenses.

Given the decisions in *In re Cadwallader*, 155 Wn.2d 867 (2005); *State v. Lopez*, 147 Wn.2d 515 (2002); *State v. Ford*, 137 Wn.2d 472 (1999); and *State v. McCorkle*, 137 Wn.2d 490 (1999), the legislature finds it is necessary to amend the provisions in RCW 9.94A.500, 9.94A.525, and 9.94A.530 in order to ensure that sentences imposed accurately reflect the offender's actual, complete criminal history, whether imposed at sentencing or upon resentencing. These amendments are consistent with the United States supreme court holding in *Monge v. California*, 524 U.S. 721 (1998), that double jeopardy is not implicated at resentencing following an appeal or collateral attack.

Sec. 2. RCW 9.94A.500 and 2006 c 339 s 303 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW, a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the

crime, the court shall order the department to complete a presentence report before imposing a sentence.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

A criminal history summary relating to the defendant from the prosecuting authority or from a state, federal, or foreign governmental agency shall be prima facie evidence of the existence and validity of the convictions listed therein. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information related to mental health services, as defined in RCW 71.05.445 and 71.34.345, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information related to mental health services as authorized by RCW 71.05.445, 71.34.345, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

Sec. 3. RCW 9.94A.525 and 2007 c 199 s 8 and 2007 c 116 s 1 are each reenacted and amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as

separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count

one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130((~~(10)~~)) (11), count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130((~~(10)~~)) (11), which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community ((~~placement~~)) custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.— RCW (the new chapter created in section 56 of this act).

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a

Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. ((~~Accordingly,~~)) Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

Sec. 4. RCW 9.94A.530 and 2005 c 68 s 2 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see RCW 9.94A.510, (Table 1) and RCW 9.94A.517, (Table 3)). The additional time for deadly weapon findings or for other adjustments as specified in RCW 9.94A.533 shall be added to the entire standard sentence range. The court may impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to RCW 9.94A.537. Acknowledgment includes not objecting to information stated in the presentence reports and not objecting to criminal history presented at the time of sentencing. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence, except as otherwise specified in RCW 9.94A.537. On remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.

(3) In determining any sentence above the standard sentence range, the court shall follow the procedures set forth in RCW 9.94A.537. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535((~~(2)~~)) (3) (d), (e), (g), and (h).

NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act apply to all sentencings and resentencings commenced before, on, or after the effective date of sections 1 through 4 of this act.

NEW SECTION. **Sec. 6.** The existing sentencing reform act contains numerous provisions for supervision of different types of offenders. This duplication has caused great confusion for judges, lawyers, offenders, and the department of corrections, and often results in inaccurate sentences. The clarifications in this act are intended to support continued discussions by the sentencing guidelines commission with the courts and the criminal justice

community to identify and propose policy changes that will further simplify and improve the sentencing reform act relating to the supervision of offenders. The sentencing guidelines commission shall submit policy change proposals to the legislature on or before December 1, 2008.

Sections 7 through 58 of this act are intended to simplify the supervision provisions of the sentencing reform act and increase the uniformity of its application. These sections are not intended to either increase or decrease the authority of sentencing courts or the department relating to supervision, except for those provisions instructing the court to apply the provisions of the current community custody law to offenders sentenced after July 1, 2009, but who committed their crime prior to the effective date of this section to the extent that such application is constitutionally permissible.

This will effect a change for offenders who committed their crimes prior to the offender accountability act, chapter 196, Laws of 1999. These offenders will be ordered to a term of community custody rather than community placement or community supervision. To the extent constitutionally permissible, the terms of the offender's supervision will be as provided in current law. With the exception of this change, the legislature does not intend to make, and no provision of sections 7 through 58 of this act may be construed as making, a substantive change to the supervision provisions of the sentencing reform act.

It is the intent of the legislature to reaffirm that section 3, chapter 379, Laws of 2003, expires July 1, 2010.

NEW SECTION. **Sec. 7.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall impose a term of community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer:

(a) A sex offense not sentenced under RCW 9.94A.712;

(b) A violent offense;

(c) A crime against persons under RCW 9.94A.411(2);

(d) A felony offender under chapter 69.50 or 69.52 RCW.

(2) If an offender is sentenced to a term of confinement of one year or less for a violation of RCW 9A.44.130(11)(a), the court shall impose a term of community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer.

(3) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(4) If an offender is sentenced under the special sexual offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(5) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(6) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.712, the court shall impose community custody as provided in that section.

NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender is sentenced to a term of confinement for one year or less for one of the following offenses, the court may impose up to one year of community custody:

(a) A sex offense, other than failure to register under RCW 9A.44.130(1);

(b) A violent offense;

(c) A crime against a person under RCW 9.94A.411; or

(d) A felony violation of chapter 69.50 or 69.52 RCW, or an attempt, conspiracy, or solicitation to commit such a crime.

(2) If an offender is sentenced to a first-time offender waiver, the court may impose community custody as provided in RCW 9.94A.650.

NEW SECTION. **Sec. 9.** A new section is added to chapter 9.94A RCW to read as follows:

When a court sentences a person to a term of community custody, the court shall impose conditions of community custody as provided in this section.

(1) **Mandatory conditions.** As part of any term of community custody, the court shall:

(a) Require the offender to inform the department of court-ordered treatment upon request by the department;

(b) Require the offender to comply with any conditions imposed by the department under section 10 of this act;

(c) If the offender was sentenced under RCW 9.94A.712 for an offense listed in RCW 9.94A.712(1)(a), and the victim of the offense was under eighteen years of age at the time of the offense, prohibit the offender from residing in a community protection zone.

(2) **Waivable conditions.** Unless waived by the court, as part of any term of community custody, the court shall order an offender to:

(a) Report to and be available for contact with the assigned community corrections officer as directed;

(b) Work at department-approved education, employment, or community restitution, or any combination thereof;

(c) Refrain from possessing or consuming controlled substances except pursuant to lawfully issued prescriptions;

(d) Pay supervision fees as determined by the department; and

(e) Obtain prior approval of the department for the offender's residence location and living arrangements.

(3) **Discretionary conditions.** As part of any term of community custody, the court may order an offender to:

(a) Remain within, or outside of, a specified geographical boundary;

(b) Refrain from direct or indirect contact with the victim of the crime or a specified class of individuals;

(c) Participate in crime-related treatment or counseling services;

(d) Participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community;

(e) Refrain from consuming alcohol; or

(f) Comply with any crime-related prohibitions.

(4) **Special conditions.**

(a) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

(b)(i) In sentencing an offender convicted of an alcohol or drug related traffic offense, the court shall require the offender to complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, defined under RCW 46.61.516, that has been approved by the department of social and health services. If the offense was pursuant to chapter 46.61 RCW, the report shall be forwarded to the department of licensing. If the offender is found to have an alcohol or drug problem that requires treatment, the offender shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the offender is found not to have an alcohol or drug problem that requires treatment, the offender shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The offender shall pay all costs for any evaluation, education, or treatment required by this section, unless the offender is eligible for an existing program offered or approved by the department of social and health services.

(ii) For purposes of this section, "alcohol or drug related traffic offense" means the following: Driving while under the influence as defined by RCW 46.61.502, actual physical control while under the influence as defined by RCW 46.61.504, vehicular homicide as defined by RCW 46.61.520(1)(a), vehicular assault as defined by RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

(iii) This subsection (4)(b) does not require the department of social and health services to add new treatment or assessment facilities nor affect its use of existing programs and facilities authorized by law.

NEW SECTION. **Sec. 10.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

(a) Report as directed to a community corrections officer;

(b) Remain within prescribed geographical boundaries;

(c) Notify the community corrections officer of any change in the offender's address or employment;

(d) Pay the supervision fee assessment; and

(e) Disclose the fact of supervision to any mental health or chemical dependency treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense, the department may impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(9)(a) When a sex offender has been sentenced pursuant to RCW 9.94A.712, the board shall exercise the authority prescribed in RCW 9.95.420 through 9.95.435.

(b) The department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the risk to community safety. The board must consider and may impose department-recommended conditions.

(c) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

(10) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

NEW SECTION. **Sec. 11.** A new section is added to chapter 9.94A RCW to read as follows:

No offender sentenced to a term of community custody under the supervision of the department may own, use, or possess firearms or ammunition.

Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the violation process and sanctions under sections 15 and 21 of this act and RCW 9.94A.737.

"Constructive possession" as used in this section means the power and intent to control the firearm or ammunition. "Firearm" as used in this section has the same definition as in RCW 9.41.010.

NEW SECTION. **Sec. 12.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) or (2); or (c) at the time of sentencing if no term of confinement is ordered.

(2) When an offender is sentenced to community custody, the offender is subject to the conditions of community custody as of the date of sentencing, unless otherwise ordered by the court.

(3) When an offender is sentenced to a community custody range pursuant to section 7 (1) or (2) of this act, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

NEW SECTION. **Sec. 13.** A new section is added to chapter 9.94A RCW to read as follows:

(1) When an offender is under community custody, the community corrections officer may obtain information from the offender's mental health treatment provider on the offender's status with respect to evaluation, application for services, registration for services, and compliance with the supervision plan, without the offender's consent, as described under RCW 71.05.630.

(2) An offender under community custody who is civilly detained under chapter 71.05 RCW, and subsequently discharged or conditionally released to the community, shall be under the supervision of the department for the duration of his or her period of community custody. During any period of inpatient mental health treatment that falls within the period of community custody, the inpatient treatment provider and the supervising community corrections officer shall notify each other about the offender's discharge, release, and legal status, and shall share other relevant information.

NEW SECTION. **Sec. 14.** A new section is added to chapter 9.94A RCW to read as follows:

(1) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions of community custody for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody.

(2) If a violation of a condition extended under this section occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040.

(3) If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

NEW SECTION. **Sec. 15.** A new section is added to chapter 9.94A RCW to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned with up to sixty days' confinement for each violation.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728(2), the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the special sexual offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

(d) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

(e) If a sex offender was sentenced pursuant to RCW 9.94A.712, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

NEW SECTION. **Sec. 16.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing pursuant to RCW 9.94A.737 for any violation of community custody and is found to have committed the violation, the department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.

(2) The department may work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody.

(3) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.

NEW SECTION. **Sec. 17.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If a sanction of confinement is imposed by the court, the following applies:

(a) If the sanction was imposed pursuant to section 15(1) of this act, the sanction shall be served in a county facility.

(b) If the sanction was imposed pursuant to section 15(2) of this act, the sanction shall be served in a state facility.

(2) If a sanction of confinement is imposed by the department, and if the offender is an inmate as defined by RCW 72.09.015, no more than eight days of the sanction, including any credit for time served, may be served in a county facility. The balance of the sanction shall be served in a state facility. In computing the eight-day period, weekends and holidays shall be excluded. The department may negotiate with local correctional authorities for an additional period of detention.

(3) If a sanction of confinement is imposed by the board, it shall be served in a state facility.

(4) Sanctions imposed pursuant to RCW 9.94A.670(3) shall be served in a county facility.

(5) As used in this section, "county facility" means a facility operated, licensed, or utilized under contract by the county, and "state facility" means a facility operated, licensed, or utilized under contract by the state.

NEW SECTION. **Sec. 18.** A new section is added to chapter 9.94A RCW to read as follows:

The procedure for imposing sanctions for violations of sentence conditions or requirements is as follows:

(1) If the offender was sentenced under the drug offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.660.

(2) If the offender was sentenced under the special sexual offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.670.

(3) If a sex offender was sentenced pursuant to RCW 9.94A.712, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

(4) In any other case, if the offender is being supervised by the department, any sanctions shall be imposed by the department pursuant to RCW 9.94A.737.

(5) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to section 19 of this act.

NEW SECTION. **Sec. 19.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender violates any condition or requirement of a sentence, and the offender is not being supervised by the department, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) If an offender fails to comply with any of the conditions or requirements of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) The state has the burden of showing noncompliance by a preponderance of the evidence;

(c) If the court finds that a violation has been proved, it may impose the sanctions specified in section 15(1) of this act. Alternatively, the court may:

(i) Convert a term of partial confinement to total confinement;

(ii) Convert community restitution obligation to total or partial confinement; or

(iii) Convert monetary obligations, except restitution and the crime victim penalty assessment, to community restitution hours at the rate of the state minimum wage as established in RCW 49.46.020 for each hour of community restitution;

(d) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of legal financial obligations and regarding community restitution obligations; and

(e) If the violation involves a failure to undergo or comply with a mental health status evaluation and/or outpatient mental health treatment, the court shall seek a recommendation from the treatment provider or proposed treatment provider. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. If the offender's failure to receive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures of chapter 71.05 RCW shall be considered in preference to incarceration in a local or state correctional facility.

(3) Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement ordered by the court.

(4) Nothing in this section prohibits the filing of escape charges if appropriate.

Sec. 20. RCW 9.94A.737 and 2007 c 483 s 305 are each amended to read as follows:

(1) ((~~If an offender violates any condition or requirement of community custody, the department may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (3) of this section.~~

~~(2) If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing for any violation of community custody and is found to have committed the violation, the~~

~~department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.~~

~~(3)(a) For a sex offender sentenced to a term of community custody under RCW 9.94A.670 who violates any condition of community custody, the department may impose a sanction of up to sixty days' confinement in a local correctional facility for each violation. If the department imposes a sanction, the department shall submit within seventy-two hours a report to the court and the prosecuting attorney outlining the violation or violations and the sanctions imposed.~~

~~(b) For a sex offender sentenced to a term of community custody under RCW 9.94A.710 who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in a local correctional facility for each violation.~~

~~(c) For an offender sentenced to a term of community custody under RCW 9.94A.505(2)(b), 9.94A.650, or 9.94A.715, or under RCW 9.94A.545, for a crime committed on or after July 1, 2000, who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.~~

~~(d) For an offender sentenced to a term of community placement under RCW 9.94A.705 who violates any condition of community placement after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.~~

~~(4) If an offender has been arrested for a new felony offense while under community supervision, community custody, or community placement, the department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community supervision, community custody, or community placement.~~

~~(5) The department shall be financially responsible for any portion of the sanctions authorized by this section that are served in a local correctional facility as the result of action by the department.~~

~~(6)~~)) If an offender is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The department shall develop hearing procedures and a structure of graduated sanctions.

((~~(7)~~)) (2) The hearing procedures required under subsection ((~~(6)~~)) (1) of this section shall be developed by rule and include the following:

(a) Hearing officers shall report through a chain of command separate from that of community corrections officers;

(b) The department shall provide the offender with written notice of the violation, the evidence relied upon, and the reasons the particular sanction was imposed. The notice shall include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision of the department;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within fifteen working days, but not less than twenty-four hours, after notice of the violation. For offenders in total confinement, the hearing shall be held within five working days, but not less than twenty-four hours, after notice of the violation;

(d) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; and (v) question witnesses who appear and testify; and

(e) The sanction shall take effect if affirmed by the hearing officer. Within seven days after the hearing officer's decision, the offender may appeal the decision to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community.

((~~(8)~~)) (3) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

((~~(9) The department shall work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody. Between January 1, 2006, and December 31, 2006, the department shall endeavor to place at least one hundred low-risk community custody violators on the electronic monitoring program per day if there are at least that many low risk offenders who qualify for the electronic monitoring program.~~

~~(10) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees shall be immune from civil liability for damages arising from~~

~~incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.~~))

NEW SECTION. **Sec. 21.** (1) The secretary may issue warrants for the arrest of any offender who violates a condition of community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation.

(2) A community corrections officer, if he or she has reasonable cause to believe an offender has violated a condition of community custody, may suspend the person's community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community custody status.

(3) If an offender has been arrested for a new felony offense while under community custody the department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community custody.

(4) A violation of a condition of community custody shall be deemed a violation of the sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.

Sec. 22. RCW 9.94A.740 and 1999 c 196 s 9 are each amended to read as follows:

(1) ((~~The secretary may issue warrants for the arrest of any offender who violates a condition of community placement or community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation.~~)) When an offender is arrested pursuant to section 21 of this act, the department shall compensate the local jurisdiction at the office of financial management's adjudicated rate, in accordance with RCW 70.48.440. ((~~A community corrections officer, if he or she has reasonable cause to believe an offender in community placement or community custody has violated a condition of community placement or community custody, may suspend the person's community placement or community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community placement or community custody status. A violation of a condition of community placement or community custody shall be deemed a violation of the~~

~~sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.~~))

(2) Inmates, as defined in RCW 72.09.015, who have been transferred to community custody and who are detained in a local correctional facility are the financial responsibility of the department of corrections, except as provided in subsection (3) of this section. ((~~The community custody inmate shall be removed from the local correctional facility, except as provided in subsection (3) of this section, not later than eight days, excluding weekends and holidays, following admittance to the local correctional facility and notification that the inmate is available for movement to a state correctional institution.~~))

(3) ((~~The department may negotiate with local correctional authorities for an additional period of detention; however, sex offenders sanctioned for community custody violations under RCW 9.94A.737(2) to a term of confinement shall remain in the local correctional facility for the complete term of the sanction.~~)) For confinement sanctions imposed by the department under RCW ((~~9.94A.737(2)(a)~~)) 9.94A.670, the local correctional facility shall be financially responsible. ((~~For confinement sanctions imposed under RCW 9.94A.737(2)(b), the department of corrections shall be financially responsible for that portion of the sanction served during the time in which the sex offender is on community custody in lieu of earned release, and the local correctional facility shall be financially responsible for that portion of the sanction served by the sex offender after the time in which the sex offender is on community custody in lieu of earned release.~~))

(4) The department, in consultation with the Washington association of sheriffs and police chiefs and those counties in which the sheriff does not operate a correctional facility, shall establish a methodology for determining the department's local correctional facilities bed utilization rate, for each county in calendar year 1998, for offenders being held for violations of conditions of community custody((~~, community placement, or community supervision~~)). ((~~For confinement sanctions imposed under RCW 9.94A.737(2) (c) or (d)~~))

(5) Except as provided in subsections (1) and (2) of this section, the local correctional facility shall continue to be financially responsible to the extent of the calendar year 1998 bed utilization rate for confinement sanctions imposed by the department pursuant to RCW 9.94A.737. If the department's use of bed space in local correctional facilities of any county for such confinement sanctions ((~~imposed on offenders sentenced to a term of community custody under RCW 9.94A.737(2) (c) or (d)~~)) exceeds the 1998 bed utilization rate for the county, the department shall compensate the county for the excess use at the per diem rate equal to the lowest rate charged by the county under its contract with a municipal government during the year in which the use occurs.

Sec. 23. RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed ((~~pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545,~~)) as part of a sentence and served in the community subject to controls placed on the offender's movement and activities by the department. ((~~For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.~~))

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850 ((~~for crimes committed on or after July 1, 2000~~)).

(7) ((~~"Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.~~

~~(8)~~)) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(((~~(9)~~))) (8) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(((~~(10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.~~

~~(11)~~)) (9) "Confinement" means total or partial confinement.

(((~~(12)~~))) (10) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

((~~(13)~~)) (11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

((~~(14)~~)) (12) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

((~~(15)~~)) (13) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

((~~(16)~~)) (14) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

((~~(17)~~)) (15) "Department" means the department of corrections.

((~~(18)~~)) (16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community ((~~supervision~~)) custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

((~~(19)~~)) (17) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

((~~(20)~~)) (18) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

((~~(21)~~)) (19) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

((~~(22)~~)) (20) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

((~~(23)~~)) (21) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

((~~(24)~~)) (22) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

((~~(25)~~)) (23) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

((~~(26)~~)) (24) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

((~~(27)~~)) (25) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

((~~(28)~~)) (26) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the

offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

((~~(29)~~)) (27) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through

July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

(((~~(30)~~))) (28) "Nonviolent offense" means an offense which is not a violent offense.

(((~~(31)~~))) (29) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(((~~(32)~~))) (30) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(((~~(33)~~))) (31) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (((~~(33)~~))) (31)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(((~~(34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.~~

((~~(35)~~)) (32) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

((~~(36)~~)) (33) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

((~~(37)~~)) (34) "Public school" has the same meaning as in RCW 28A.150.010.

((~~(38)~~)) (35) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

((~~(39)~~)) (36) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

((~~(40)~~)) (37) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

((~~(41)~~)) (38) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

((~~(42)~~)) (39) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130((~~(11)~~)) (12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

((~~(43)~~)) (40) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

((~~(44)~~)) (41) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

((~~(45)~~)) (42) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

((~~(46)~~)) (43) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

((~~(47)~~)) (44) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

((~~(48)~~)) (45) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

((~~(49)~~)) (46) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

((~~(50)~~)) (47) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;
(v) Indecent liberties if committed by forcible compulsion;
(vi) Kidnapping in the second degree;
(vii) Arson in the second degree;
(viii) Assault in the second degree;
(ix) Assault of a child in the second degree;
(x) Extortion in the first degree;
(xi) Robbery in the second degree;
(xii) Drive-by shooting;
(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and
(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.
((~~(51)~~)) (48) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.
((~~(52)~~)) (49) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.
((~~(53)~~)) (50) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 24. RCW 9.94A.501 and 2005 c 362 s 1 are each amended to read as follows:

(1) When the department performs a risk assessment pursuant to RCW 9.94A.500, or to determine a person's conditions of supervision, the risk assessment shall classify the offender or a probationer sentenced in superior court into one of at least four risk categories.
(2) The department shall supervise every offender sentenced to a term of community custody((~~, community placement, or community supervision~~)) and every misdemeanor and gross misdemeanor probationer ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:
(a) Whose risk assessment places that offender or probationer in one of the two highest risk categories; or
(b) Regardless of the offender's or probationer's risk category if:
(i) The offender's or probationer's current conviction is for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(ii) The offender or probationer has a prior conviction for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) The conditions of the offender's community custody((~~, community placement, or community supervision~~)) or the probationer's supervision include chemical dependency treatment;

(iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670; or

(v) The offender is subject to supervision pursuant to RCW 9.94A.745.

(3) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody((~~, community placement, or community supervision~~)) or any probationer unless the offender or probationer is one for whom supervision is required under subsection (2) of this section.

(4) This section expires July 1, 2010.

Sec. 25. RCW 9.94A.505 and 2006 c 73 s 6 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, ((~~the court shall impose~~)) a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) ((~~RCW 9.94A.700 and 9.94A.705, relating to community placement~~)) Sections 7 and 8 of this act, relating to community custody;

(iii) ((~~RCW 9.94A.710 and 9.94A.715, relating to community custody;~~

~~(iv) RCW 9.94A.545, relating to community custody for offenders whose term of confinement is one year or less;~~

~~(v)~~)) RCW 9.94A.570, relating to persistent offenders;

((~~(vi)~~)) (iv) RCW 9.94A.540, relating to mandatory minimum terms;

((~~(vii)~~)) (v) RCW 9.94A.650, relating to the first-time offender waiver;

(((~~(viii)~~))) (vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(((~~(ix)~~))) (vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(((~~(x)~~))) (viii) RCW 9.94A.712, relating to certain sex offenses;

(((~~(xi)~~))) (ix) RCW 9.94A.535, relating to exceptional sentences;

(((~~(xii)~~))) (x) RCW 9.94A.589, relating to consecutive and concurrent sentences;

(((~~(xiii)~~))) (xi) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; ((~~until July 1, 2000,~~)) a term of community ((~~supervision~~)) custody not to exceed one year ((~~and on and after July 1, 2000, a term of community custody not to exceed one year, subject to conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3)~~)); and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or ((~~community supervision, community placement, or~~)) community custody ((~~which~~)) that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) ((~~The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or~~

~~eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.~~

~~(10)~~)) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(((~~(11) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may, as part of any term of community supervision, community placement, or community custody, order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~))

Sec. 26. RCW 9.94A.610 and 2003 c 53 s 61 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community ((~~placement~~)) custody, work release placement, furlough, or escape about a specific inmate convicted of a serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

(a) Any witnesses who testified against the inmate in any court proceedings involving the serious drug offense; and

(b) Any person specified in writing by the prosecuting attorney.

Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The department of corrections shall send the notices required by this section to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section, "serious drug offense" means an offense under RCW 69.50.401(2) (a) or (b) or 69.50.4011(2) (a) or (b).

Sec. 27. RCW 9.94A.612 and 1996 c 215 s 4 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole,

release, community ((~~placement~~)) custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(6) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

Sec. 28. RCW 9.94A.625 and 2000 c 226 s 5 are each amended to read as follows:

(1) A term of confinement ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented himself or herself from confinement without the prior approval of the entity in whose custody the offender has been placed. A term of partial confinement shall be tolled during any period of time spent in total confinement pursuant to a new conviction or pursuant to sanctions for violation of sentence conditions on a separate felony conviction.

(2) Any term of community custody((~~, community placement, or community supervision~~)) shall be tolled by any period of time during which the offender has absented himself or herself from supervision without prior approval of the entity under whose supervision the offender has been placed.

(3) Any period of community custody((~~, community placement, or community supervision~~)) shall be tolled during any period of time the offender is in confinement for any reason. However, if an offender is detained pursuant to RCW 9.94A.740 or 9.94A.631 and is later found not to have violated a condition or requirement of community custody((~~, community placement, or community supervision~~)), time spent in confinement due to such detention shall not toll the period of community custody((~~, community placement, or community supervision~~)).

(4) For terms of confinement or community custody((~~, community placement, or community supervision~~)), the date for the tolling of the sentence shall be established by the entity responsible for the confinement or supervision.

Sec. 29. RCW 9.94A.650 and 2006 c 73 s 9 are each amended to read as follows:

(1) This section applies to offenders who have never been previously convicted of a felony in this state, federal court, or another state, and who have

never participated in a program of deferred prosecution for a felony, and who are convicted of a felony that is not:

(a) Classified as a violent offense or a sex offense under this chapter;

(b) Manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or flunitrazepam classified in Schedule IV;

(c) Manufacture, delivery, or possession with intent to deliver a methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2);

(d) The selling for profit of any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana; or

(e) Felony driving while under the influence of intoxicating liquor or any drug or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(2) In sentencing a first-time offender the court may waive the imposition of a sentence within the standard sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. ((~~The sentence may also include a term of community supervision or community custody as specified in subsection (3) of this section, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:~~

~~(a) Devote time to a specific employment or occupation;~~

~~(b) Undergo available outpatient treatment for up to the period specified in subsection (3) of this section, or inpatient treatment not to exceed the standard range of confinement for that offense;~~

~~(c) Pursue a prescribed, secular course of study or vocational training;~~

~~(d) Remain within prescribed geographical boundaries and notify the community corrections officer prior to any change in the offender's address or employment;~~

~~(e) Report as directed to a community corrections officer; or~~

~~(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community restitution work.~~))

(3) ((~~The terms and statuses applicable to sentences under subsection (2) of this section are:~~

~~(a) For sentences imposed on or after July 25, 1999, for crimes committed before July 1, 2000, up to one year of community supervision. If treatment is ordered, the period of community supervision may include up to the period of treatment, but shall not exceed two years; and~~

~~(b) For crimes committed on or after July 1, 2000,~~)) The court may impose up to one year of community custody unless treatment is ordered, in which case the period of community custody may include up to the period of treatment, but shall not exceed two years. ((~~Any term of community custody imposed under this section is subject to conditions and sanctions as authorized in this section and in RCW 9.94A.715 (2) and (3).~~))

(4) ((~~The department shall discharge from community supervision any offender sentenced under this section before July 25, 1999, who has served at least one year of community supervision and has completed any treatment~~

~~ordered by the court.~~)) As a condition of community custody, in addition to any conditions authorized in section 9 of this act, the court may order the offender to pay all court-ordered legal financial obligations and/or perform community restitution work.

Sec. 30. RCW 9.94A.660 and 2006 c 339 s 302 and 2006 c 73 s 10 are each reenacted and amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative.

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions <u>of community custody</u> have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to ((~~RCW 9.94A.715~~)) <u>section 7 of this act</u> to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the

department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. ((~~The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740.~~)) The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under ((~~RCW 9.94A.715~~)) section 7 of this act;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) ((~~If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency referred program.~~)) The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances. ((~~In addition,~~))

(8) The court may impose any of the following conditions:

(a) ((~~Devote time to a specific employment or training;~~

~~(b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;~~

~~(c) Report as directed to a community corrections officer;~~

~~(d)~~)) Pay all court-ordered legal financial obligations; or

(((~~e~~))) (b) Perform community restitution work((~~;~~

~~(f) Stay out of areas designated by the sentencing court;~~

~~(g) Such other conditions as the court may require such as affirmative conditions~~)).

(((~~8~~))) (9)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the ((~~terms~~)) conditions of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

((~~(9)~~)) (10) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.

(11) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

((~~(10)~~)) (12) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

((~~(11)~~)) (13) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

Sec. 31. RCW 9.94A.670 and 2006 c 133 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this subsection apply to this section only.

(a) "Sex offender treatment provider" or "treatment provider" means a certified sex offender treatment provider or a certified affiliate sex offender treatment provider as defined in RCW 18.155.020.

(b) "Substantial bodily harm" means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any body part or organ, or that causes a fracture of any body part or organ.

(c) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(2) An offender is eligible for the special sex offender sentencing alternative if:

(a) The offender has been convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense. If the

conviction results from a guilty plea, the offender must, as part of his or her plea of guilty, voluntarily and affirmatively admit he or she committed all of the elements of the crime to which the offender is pleading guilty. This alternative is not available to offenders who plead guilty to the offense charged under *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) and *State v. Newton*, 87 Wash.2d 363, 552 P.2d 682 (1976);

(b) The offender has no prior convictions for a sex offense as defined in RCW 9.94A.030 or any other felony sex offenses in this or any other state;

(c) The offender has no prior adult convictions for a violent offense that was committed within five years of the date the current offense was committed;

(d) The offense did not result in substantial bodily harm to the victim;

(e) The offender had an established relationship with, or connection to, the victim such that the sole connection with the victim was not the commission of the crime; and

(f) The offender's standard sentence range for the offense includes the possibility of confinement for less than eleven years.

(3) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the offender, may order an examination to determine whether the offender is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The offender's version of the facts and the official version of the facts;

(ii) The offender's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The offender's social and employment situation; and

(v) Other evaluation measures used.

The report shall set forth the sources of the examiner's information.

(b) The examiner shall assess and report regarding the offender's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(i) Frequency and type of contact between offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions and affirmative conditions, which must include, to the extent known, an identification of specific activities or behaviors that are precursors to the offender's offense cycle, including, but not limited to, activities or behaviors such as viewing or listening to pornography or use of alcohol or controlled substances.

(c) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The examiner shall be selected by the party making the motion. The offender shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(4) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this alternative, consider whether the alternative is too lenient in light of the extent and circumstances of the offense,

consider whether the offender has victims in addition to the victim of the offense, consider whether the offender is amenable to treatment, consider the risk the offender would present to the community, to the victim, or to persons of similar age and circumstances as the victim, and consider the victim's opinion whether the offender should receive a treatment disposition under this section. The court shall give great weight to the victim's opinion whether the offender should receive a treatment disposition under this section. If the sentence imposed is contrary to the victim's opinion, the court shall enter written findings stating its reasons for imposing the treatment disposition. The fact that the offender admits to his or her offense does not, by itself, constitute amenability to treatment. If the court determines that this alternative is appropriate, the court shall then impose a sentence or, pursuant to RCW 9.94A.712, a minimum term of sentence, within the standard sentence range. If the sentence imposed is less than eleven years of confinement, the court may suspend the execution of the sentence ((~~and impose the following conditions of suspension:~~)) as provided in this section.

(5) As conditions of the suspended sentence, the court must impose the following:

(a) ((~~The court shall order the offender to serve~~)) A term of confinement of up to twelve months or the maximum term within the standard range, whichever is less. The court may order the offender to serve a term of confinement greater than twelve months or the maximum term within the standard range based on the presence of an aggravating circumstance listed in RCW 9.94A.535(3). In no case shall the term of confinement exceed the statutory maximum sentence for the offense. The court may order the offender to serve all or part of his or her term of confinement in partial confinement. An offender sentenced to a term of confinement under this subsection is not eligible for earned release under RCW 9.92.151 or 9.94A.728.

(b) ((~~The court shall place the offender on~~)) A term of community custody ((~~for~~)) equal to the length of the suspended sentence, the length of the maximum term imposed pursuant to RCW 9.94A.712, or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department under ((~~RCW 9.94A.720~~)) section 9 of this act.

(c) ((~~The court shall order~~)) Treatment for any period up to five years in duration. The court, in its discretion, shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court. If any party or the court objects to a proposed change, the offender shall not change providers or conditions without court approval after a hearing.

(d) ((~~As conditions of the suspended sentence, the court shall impose~~)) Specific prohibitions and affirmative conditions relating to the known precursor activities or behaviors identified in the proposed treatment plan under subsection (3)(b)(v) of this section or identified in an annual review under subsection (((~~(7)~~))) (8)(b) of this section.

(((~~(5)~~))) (6) As conditions of the suspended sentence, the court may impose one or more of the following:

(a) Crime-related prohibitions;

(b) Require the offender to devote time to a specific employment or occupation;

(c) Require the offender to remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(d) Require the offender to report as directed to the court and a community corrections officer;

(e) Require the offender to pay all court-ordered legal financial obligations as provided in RCW 9.94A.030;

(f) Require the offender to perform community restitution work; or

(g) Require the offender to reimburse the victim for the cost of any counseling required as a result of the offender's crime.

(((~~(6)~~))) (7) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment.

(((~~(7)~~))) (8)(a) The sex offender treatment provider shall submit quarterly reports on the offender's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, offender's compliance with requirements, treatment activities, the offender's relative progress in treatment, and any other material specified by the court at sentencing.

(b) The court shall conduct a hearing on the offender's progress in treatment at least once a year. At least fourteen days prior to the hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. At the hearing, the court may modify conditions of community custody including, but not limited to, crime-related prohibitions and affirmative conditions relating to activities and behaviors identified as part of, or relating to precursor activities and behaviors in, the offender's offense cycle or revoke the suspended sentence.

(((~~(8)~~))) (9) At least fourteen days prior to the treatment termination hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. Prior to the treatment termination hearing, the treatment provider and community corrections officer shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community custody conditions. The court may order an evaluation regarding the advisability of termination from treatment by a sex offender treatment provider who may not be the same person who treated the offender under subsection (((~~(4)~~))) (5) of this section or any person who employs, is employed by, or shares profits with the person who treated the offender under subsection (((~~(4)~~))) (5) of this section unless the court has entered written findings that such evaluation is in the best interest of the victim and that a successful evaluation of the offender would otherwise be impractical. The offender shall pay the cost of the evaluation. At the treatment termination hearing the court may: (a) Modify conditions of community custody, and either (b) terminate

treatment, or (c) extend treatment in two-year increments for up to the remaining period of community custody.

(((~~(9)~~))) (10)(a) If a violation of conditions other than a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection (((~~(4)~~))) (5)(d) or (((~~(7)~~))) (8)(b) of this section occurs during community custody, the department shall either impose sanctions as provided for in ((~~RCW 9.94A.737(2)(a)~~)) section 15(1) of this act or refer the violation to the court and recommend revocation of the suspended sentence as provided for in subsections (((~~(6)~~))) (7) and (((~~(8)~~))) (9) of this section.

(b) If a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection (((~~(4)~~))) (5)(d) or (((~~(7)~~))) (8)(b) of this section occurs during community custody, the department shall refer the violation to the court and recommend revocation of the suspended sentence as provided in subsection (((~~(10)~~))) (11) of this section.

(((~~(10)~~))) (11) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (a) The offender violates the conditions of the suspended sentence, or (b) the court finds that the offender is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

(((~~(11)~~))) (12) If the offender violates a requirement of the sentence that is not a condition of the suspended sentence pursuant to subsection (5) or (6) of this section, the department may impose sanctions pursuant to section 15(1) of this act.

(13) The offender's sex offender treatment provider may not be the same person who examined the offender under subsection (3) of this section or any person who employs, is employed by, or shares profits with the person who examined the offender under subsection (3) of this section, unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical. Examinations and treatment ordered pursuant to this subsection shall only be conducted by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court finds that:

(a) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; or

(b)(i) No certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and

(ii) The evaluation and treatment plan comply with this section and the rules adopted by the department of health.

(((~~(12)~~))) (14) If the offender is less than eighteen years of age when the charge is filed, the state shall pay for the cost of initial evaluation and treatment.

Sec. 32. RCW 9.94A.690 and 2006 c 73 s 11 are each amended to read as follows:

(1)(a) An offender is eligible to be sentenced to a work ethic camp if the offender:

(i) Is sentenced to a term of total confinement of not less than twelve months and one day or more than thirty-six months;

(ii) Has no current or prior convictions for any sex offenses or for violent offenses; and

(iii) Is not currently subject to a sentence for, or being prosecuted for, a violation of felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), a violation of physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), a violation of the uniform controlled substances act, or a criminal solicitation to commit such a violation under chapter 9A.28 or 69.50 RCW.

(b) The length of the work ethic camp shall be at least one hundred twenty days and not more than one hundred eighty days.

(2) If the sentencing court determines that the offender is eligible for the work ethic camp and is likely to qualify under subsection (3) of this section, the judge shall impose a sentence within the standard sentence range and may recommend that the offender serve the sentence at a work ethic camp. In sentencing an offender to the work ethic camp, the court shall specify: (a) That upon completion of the work ethic camp the offender shall be released on community custody for any remaining time of total confinement; (b) the applicable conditions of ((~~supervision on~~)) community custody ((~~status~~)) as ((~~required by RCW 9.94A.700(4) and~~)) authorized by ((~~RCW 9.94A.700(5)~~)) section 9 of this act; and (c) that violation of the conditions may result in a return to total confinement for the balance of the offender's remaining time of confinement.

(3) The department shall place the offender in the work ethic camp program, subject to capacity, unless: (a) The department determines that the offender has physical or mental impairments that would prevent participation and completion of the program; (b) the department determines that the offender's custody level prevents placement in the program; (c) the offender refuses to agree to the terms and conditions of the program; (d) the offender has been found by the United States attorney general to be subject to a deportation detainer or order; or (e) the offender has participated in the work ethic camp program in the past.

(4) An offender who fails to complete the work ethic camp program, who is administratively terminated from the program, or who otherwise violates any conditions of supervision, as defined by the department, shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court and shall be subject to all rules relating to earned release time.

(5) During the last two weeks prior to release from the work ethic camp program the department shall provide the offender with comprehensive transition training.

Sec. 33. RCW 9.94A.712 and 2006 c 124 s 3, 2006 c 122 s 5, and 2005 c 436 s 2 are each reenacted and amended to read as follows:

(1) An offender who is not a persistent offender shall be sentenced under this section if the offender:

(a) Is convicted of:

(i) Rape in the first degree, rape in the second degree, rape of a child in the first degree, child molestation in the first degree, rape of a child in the second degree, or indecent liberties by forcible compulsion;

(ii) Any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or

(iii) An attempt to commit any crime listed in this subsection (1)(a);

((~~committed on or after September 1, 2001;~~)) or

(b) Has a prior conviction for an offense listed in RCW 9.94A.030((~~(33)~~)) (31)(b), and is convicted of any sex offense ((~~which was committed after September 1, 2001.~~

~~For purposes of this subsection (1)(b),~~)) other than failure to register ((~~is not a sex offense~~)).

(2) An offender convicted of rape of a child in the first or second degree or child molestation in the first degree who was seventeen years of age or younger at the time of the offense shall not be sentenced under this section.

(3)(a) Upon a finding that the offender is subject to sentencing under this section, the court shall impose a sentence to a maximum term and a minimum term.

(b) The maximum term shall consist of the statutory maximum sentence for the offense.

(c)(i) Except as provided in (c)(ii) of this subsection, the minimum term shall be either within the standard sentence range for the offense, or outside the standard sentence range pursuant to RCW 9.94A.535, if the offender is otherwise eligible for such a sentence.

(ii) If the offense that caused the offender to be sentenced under this section was rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, and there has been a finding that the offense was predatory under RCW 9.94A.836, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section was rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding that the victim was under the age of fifteen at the time of the offense under RCW 9.94A.837, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding under RCW 9.94A.838 that the victim was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult, the minimum sentence shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater.

(d) The minimum terms in (c)(ii) of this subsection do not apply to a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i) or (v). The minimum term for such a juvenile shall be imposed under (c)(i) of this subsection.

(4) A person sentenced under subsection (3) of this section shall serve the sentence in a facility or institution operated, or utilized under contract, by the state.

(5) When a court sentences a person to the custody of the department under this section, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody under the supervision of the department and the authority of the board for any period of time the person is released from total confinement before the expiration of the maximum sentence.

(6)(a)(~~((i) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department and the board shall enforce such conditions pursuant to RCW 9.94A.713, 9.95.425, and 9.95.430.~~

~~(ii) If the offense that caused the offender to be sentenced under this section was an offense listed in subsection (1)(a) of this section and the victim of the offense was under eighteen years of age at the time of the offense, the court shall, as a condition of community custody, prohibit the offender from residing in a community protection zone.~~

~~(b)~~)) As part of any sentence under this section, the court shall also require the offender to comply with any conditions imposed by the board under RCW ((~~9.94A.713 and~~)) 9.95.420 through 9.95.435.

(b) An offender released by the board under RCW 9.95.420 is subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

Sec. 34. RCW 9.94A.728 and 2007 c 483 s 304 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in

custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor); (C) Has no prior conviction for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(D) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(E) Has not committed a new felony after July 22, 2007, while under ((~~community supervision, community placement, or~~)) community custody.

(iii) For purposes of determining an offender's eligibility under this subsection (1)(b), the department shall perform a risk assessment of every offender committed to a correctional facility operated by the department who has

no current or prior conviction for a sex offense, a violent offense, a crime against persons as defined in RCW 9.94A.411, a felony that is domestic violence as defined in RCW 10.99.020, a violation of RCW 9A.52.025 (residential burglary), a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor). The department must classify each assessed offender in one of four risk categories between highest and lowest risk.

(iv) The department shall recalculate the earned release time and reschedule the expected release dates for each qualified offender under this subsection (1)(b).

(v) This subsection (1)(b) applies retroactively to eligible offenders serving terms of total confinement in a state correctional facility as of July 1, 2003.

(vi) This subsection (1)(b) does not apply to offenders convicted after July 1, 2010.

(c) In no other case shall the aggregate earned release time exceed one-third of the total sentence;

(2)(a) ((~~A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;~~

~~(b)~~)) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, ((~~committed on or after July 1, 2000,~~)) may become eligible, in accordance with a program developed by the department, for transfer to community custody ((~~status~~)) in lieu of earned release time pursuant to subsection (1) of this section;

(((~~(c)~~))) (b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with ((~~community placement or~~)) community custody terms eligible for release to community custody ((~~status~~)) in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(((~~(d)~~))) (c) The department may deny transfer to community custody ((~~status~~)) in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody ((~~or community placement~~));

(((~~(e)~~))) (d) If the department denies transfer to community custody ((~~status~~)) in lieu of earned early release pursuant to (((~~(d)~~))) (c) of this subsection, the department may transfer an offender to partial confinement in lieu of earned early release up to three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in this section;

(((~~(f)~~))) (e) An offender serving a term of confinement imposed under RCW 9.94A.670(((~~(4)~~))) (5)(a) is not eligible for earned release credits under this section;

(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(4)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious enough to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and

(iii) Granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time;

(5) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(6) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to subsection (2)(((~~(e)~~))) (d) of this section;

(7) The governor may pardon any offender;

(8) The department may release an offender from confinement any time within ten days before a release date calculated under this section; ((~~and~~))

(9) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870((~~.~~)); and

(10) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total

confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540, however persistent offenders are not eligible for extraordinary medical placement.

Sec. 35. RCW 9.94A.760 and 2005 c 263 s 1 are each amended to read as follows:

(1) Whenever a person is convicted in superior court, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount if the department has active supervision of the offender, otherwise the county clerk shall set the amount. Upon receipt of an offender's monthly payment, restitution shall be paid prior to any payments of other monetary obligations. After restitution is satisfied, the county clerk shall distribute the payment proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court.

(2) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per day of incarceration, if incarcerated in a prison, or the court may require the offender to pay the actual cost of incarceration per day of incarceration, if incarcerated in a county jail. In no case may the court require the offender to pay more than one hundred dollars per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department.

(3) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be issued immediately. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department or the county clerk may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(4) Independent of the department or the county clerk, the party or entity to whom the legal financial obligation is owed shall have the authority to use any

other remedies available to the party or entity to collect the legal financial obligation. These remedies include enforcement in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of rape of a child or a victim's child born from the rape, the Washington state child support registry shall be identified as the party to whom payments must be made. Restitution obligations arising from the rape of a child in the first, second, or third degree that result in the pregnancy of the victim may be enforced for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial obligations for an offense committed prior to July 1, 2000, may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior court may extend the criminal judgment an additional ten years for payment of legal financial obligations including crime victims' assessments. All other legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The department may only supervise the offender's compliance with payment of the legal financial obligations during any period in which the department is authorized to supervise the offender in the community under RCW 9.94A.728, 9.94A.501, or in which the offender is confined in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is not responsible for supervision of the offender during any subsequent period of time the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(5) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to respond truthfully and honestly to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring all documents requested by the department.

(6) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(7)(a) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be

modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. During the period of supervision, the department may require the offender to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the department in order to prepare the collection schedule.

(b) Subsequent to any period of supervision, or if the department is not authorized to supervise the offender in the community, the county clerk may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the county clerk sets the monthly payment amount, or if the department set the monthly payment amount and the department has subsequently turned the collection of the legal financial obligation over to the county clerk, the clerk may modify the monthly payment amount without the matter being returned to the court. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule.

(8) After the judgment and sentence or payment order is entered, the department is authorized, for any period of supervision, to collect the legal financial obligation from the offender. Subsequent to any period of supervision or, if the department is not authorized to supervise the offender in the community, the county clerk is authorized to collect unpaid legal financial obligations from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purpose of disbursements. The department and the county clerks are authorized, but not required, to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(9) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.7701. Any party obtaining a wage assignment shall notify the county clerk. The county clerks shall notify the department, or the administrative office of the courts, whichever is providing the monthly billing for the offender.

(10) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties for noncompliance as provided in RCW 9.94A.634 (as recodified by this act), 9.94A.737, or 9.94A.740.

(11)(a) Until January 1, 2004, the department shall mail individualized monthly billings to the address known by the department for each offender with an unsatisfied legal financial obligation.

(b) Beginning January 1, 2004, the administrative office of the courts shall mail individualized monthly billings to the address known by the office for each offender with an unsatisfied legal financial obligation.

(c) The billing shall direct payments, other than outstanding cost of supervision assessments under RCW 9.94A.780, parole assessments under RCW 72.04A.120, and cost of probation assessments under RCW 9.95.214, to the county clerk, and cost of supervision, parole, or probation assessments to the department.

(d) The county clerk shall provide the administrative office of the courts with notice of payments by such offenders no less frequently than weekly.

(e) The county clerks, the administrative office of the courts, and the department shall maintain agreements to implement this subsection.

(12) The department shall arrange for the collection of unpaid legal financial obligations during any period of supervision in the community through the county clerk. The department shall either collect unpaid legal financial obligations or arrange for collections through another entity if the clerk does not assume responsibility or is unable to continue to assume responsibility for collection pursuant to subsection (4) of this section. The costs for collection services shall be paid by the offender.

(13) The county clerk may access the records of the employment security department for the purposes of verifying employment or income, seeking any assignment of wages, or performing other duties necessary to the collection of an offender's legal financial obligations.

(14) Nothing in this chapter makes the department, the state, the counties, or any state or county employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations or for the acts of any offender who is no longer, or was not, subject to supervision by the department for a term of community custody, ((~~community placement, or community supervision,~~)) and who remains under the jurisdiction of the court for payment of legal financial obligations.

Sec. 36. RCW 9.94A.775 and 2003 c 379 s 17 are each amended to read as follows:

If an offender with an unsatisfied legal financial obligation is not subject to supervision by the department for a term of ((~~community placement,~~)) community custody, ((~~or community supervision,~~)) or has not completed payment of all legal financial obligations included in the sentence at the expiration of his or her term of ((~~community placement,~~)) community custody, ((~~or community supervision,~~)) the department shall notify the administrative office of the courts of the termination of the offender's supervision and provide information to the administrative office of the courts to enable the county clerk to monitor payment of the remaining obligations. The county clerk is authorized to monitor payment after such notification. The secretary of corrections and the administrator for the courts shall enter into an interagency agreement to facilitate the electronic transfer of information about offenders, unpaid obligations, and payees to carry out the purposes of this section.

Sec. 37. RCW 9.94A.780 and 2003 c 379 s 18 are each amended to read as follows:

(1) Whenever a punishment imposed under this chapter requires supervision services to be provided, the offender shall pay to the department of corrections the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the terms of supervision and which shall be considered as payment or part payment of the cost of providing supervision to the offender. The department may exempt or defer a person from the payment of all or any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the department.

(d) The offender's age prevents him or her from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the department.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments that shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment that is less than ten dollars nor more than fifty dollars.

(3) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the dedicated fund established pursuant to RCW 72.11.040.

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to June 10, 1982.

(5) If a county clerk assumes responsibility for collection of unpaid legal financial obligations under RCW 9.94A.760, or under any agreement with the department under that section, whether before or after the completion of any period of ((~~community placement,~~)) community custody, ((~~or community supervision,~~)) the clerk may impose a monthly or annual assessment for the cost of collections. The amount of the assessment shall not exceed the actual cost of collections. The county clerk may exempt or defer payment of all or part of the assessment based upon any of the factors listed in subsection (1) of this section. The offender shall pay the assessment under this subsection to the county clerk who shall apply it to the cost of collecting legal financial obligations under RCW 9.94A.760.

Sec. 38. RCW 9.94A.820 and 2004 c 38 s 10 are each amended to read as follows:

(1) Sex offender examinations and treatment ordered as a special condition of ((~~community placement or~~)) community custody under this chapter shall be conducted only by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court or the department finds that: (a) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the

certification requirements; (b) the treatment provider is employed by the department; or (c)(i) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available to provide treatment within a reasonable geographic distance of the offender's home, as determined in rules adopted by the secretary; and (ii) the evaluation and treatment plan comply with the rules adopted by the department of health. A treatment provider selected by an offender under (c) of this subsection, who is not certified by the department of health shall consult with a certified sex offender treatment provider during the offender's period of treatment to ensure compliance with the rules adopted by the department of health. The frequency and content of the consultation shall be based on the recommendation of the certified sex offender treatment provider.

(2) A sex offender's failure to participate in treatment required as a condition of ((~~community placement or~~)) community custody is a violation that will not be excused on the basis that no treatment provider was located within a reasonable geographic distance of the offender's home.

Sec. 39. RCW 4.24.556 and 2004 c 38 s 1 are each amended to read as follows:

(1) A certified sex offender treatment provider, or a certified affiliate sex offender treatment provider who has completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, acting in the course of his or her duties, providing treatment to a person who has been released to a less restrictive alternative under chapter 71.09 RCW or to a level III sex offender on community custody as a court ((~~or~~)), department, or board ordered condition of sentence is not negligent because he or she treats a high risk offender; sex offenders are known to have a risk of reoffense. The treatment provider is not liable for civil damages resulting from the reoffense of a client unless the treatment provider's acts or omissions constituted gross negligence or willful or wanton misconduct. This limited liability provision does not eliminate the treatment provider's duty to warn of and protect from a client's threatened violent behavior if the client communicates a serious threat of physical violence against a reasonably ascertainable victim or victims. In addition to any other requirements to report violations, the sex offender treatment provider is obligated to report an offender's expressions of intent to harm or other predatory behavior, whether or not there is an ascertainable victim, in progress reports and other established processes that enable courts and supervising entities to assess and address the progress and appropriateness of treatment. This limited liability provision applies only to the conduct of certified sex offender treatment providers, and certified affiliate sex offender treatment providers who have completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, and not the conduct of the state.

(2) Sex offender treatment providers who provide services to the department of corrections by identifying risk factors and notifying the department of risks for the subset of high risk offenders who are not amenable to treatment and who are under court order for treatment or supervision are practicing within the scope of their profession.

Sec. 40. RCW 9.95.017 and 2003 c 218 s 2 are each amended to read as follows:

(1) The board shall cause to be prepared criteria for duration of confinement, release on parole, and length of parole for persons committed to prison for crimes committed before July 1, 1984.

The proposed criteria should take into consideration RCW 9.95.009(2). Before submission to the governor, the board shall solicit comments and review on their proposed criteria for parole release.

(2) Persons committed to the department of corrections and who are under the authority of the board for crimes committed on or after September 1, 2001, are subject to the provisions for duration of confinement, release to community custody, and length of community custody established in RCW 9.94A.712, ((~~9.94A.713~~)) section 10 of this act, 72.09.335, and 9.95.420 through 9.95.440.

Sec. 41. RCW 9.95.064 and 2001 2nd sp.s. c 12 s 326 are each amended to read as follows:

(1) In order to minimize the trauma to the victim, the court may attach conditions on release of an offender under RCW 9.95.062, convicted of a crime committed before July 1, 1984, regarding the whereabouts of the defendant, contact with the victim, or other conditions.

(2) Offenders released under RCW 9.95.420 are subject to crime-related prohibitions and affirmative conditions established by the court, the department of corrections, or the board pursuant to RCW ((~~9.94A.715 and~~)) 9.94A.712, ((~~9.94A.713~~)) section 10 of this act, 72.09.335, and 9.95.420 through 9.95.440.

Sec. 42. RCW 9.95.110 and 2003 c 218 s 7 are each amended to read as follows:

(1) The board may permit an offender convicted of a crime committed before July 1, 1984, to leave the buildings and enclosures of a state correctional institution on parole, after such convicted person has served the period of confinement fixed for him or her by the board, less time credits for good behavior and diligence in work: PROVIDED, That in no case shall an inmate be credited with more than one-third of his or her sentence as fixed by the board.

The board may establish rules and regulations under which an offender may be allowed to leave the confines of a state correctional institution on parole, and may return such person to the confines of the institution from which he or she was paroled, at its discretion.

(2) The board may permit an offender convicted of a crime committed on or after September 1, 2001, and sentenced under RCW 9.94A.712, to leave a state correctional institution on community custody according to the provisions of RCW 9.94A.712, ((~~9.94A.713~~)) section 10 of this act, 72.09.335, and 9.95.420 through 9.95.440. The person may be returned to the institution following a violation of his or her conditions of release to community custody pursuant to the hearing provisions of RCW 9.95.435.

Sec. 43. RCW 9.95.123 and 2001 2nd sp.s. c 12 s 336 are each amended to read as follows:

In conducting on-site parole hearings or community custody revocation ((~~hearings or community custody~~)) or violations hearings, the board shall have the authority to administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas for the compulsory attendance of witnesses and

the production of evidence for presentation at such hearings. Subpoenas issued by the board shall be effective throughout the state. Witnesses in attendance at any on-site parole or community custody revocation hearing shall be paid the same fees and allowances, in the same manner and under the same conditions as provided for witnesses in the courts of the state in accordance with chapter 2.40 RCW. If any person fails or refuses to obey a subpoena issued by the board, or obeys the subpoena but refuses to testify concerning any matter under examination at the hearing, the board may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena: PROVIDED, That an offer to pay statutory fees and mileage has been made to the witness at the time of the service of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the board. The court, upon such petition, shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he or she has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 44. RCW 9.95.420 and 2007 c 363 s 2 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, before the expiration of the minimum term, as part of the end of sentence review process under RCW 72.09.340, 72.09.345, and where appropriate, 72.09.370, the department shall conduct, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(b) The board may contract for an additional, independent examination, subject to the standards in this section.

(c) If at the time the sentence is imposed by the superior court the offender's minimum term has expired or will expire within one hundred twenty days of the sentencing hearing, the department shall conduct, within ninety days of the offender's arrival at a department of corrections facility, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(2) The board shall impose the conditions and instructions provided for in ((~~RCW 9.94A.720~~)) section 10 of this act. The board shall consider the department's recommendations and may impose conditions in addition to those recommended by the department. The board may impose or modify conditions of community custody following notice to the offender.

(3)(a) Except as provided in (b) of this subsection, no later than ninety days before expiration of the minimum term, but after the board receives the results

from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(b) If at the time the offender's minimum term has expired or will expire within one hundred twenty days of the offender's arrival at a department of correction's facility, then no later than one hundred twenty days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for the victims of any crimes for which the offender has been convicted to present oral, video, written, or in-person testimony to the board. The procedures for victim input shall be developed by rule. To facilitate victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

Sec. 45. RCW 9.95.440 and 2003 c 218 s 6 are each amended to read as follows:

In the event the board suspends the release status of an offender released under RCW 9.95.420 by reason of an alleged violation of a condition of release, or pending disposition of a new criminal charge, the board may nullify the suspension order and reinstate release under previous conditions or any new conditions the board determines advisable under ((~~RCW 9.94A.713(5)~~)) section 10 of this act. Before the board may nullify a suspension order and reinstate release, it shall determine that the best interests of society and the offender shall be served by such reinstatement rather than return to confinement.

Sec. 46. RCW 46.61.524 and 2006 c 73 s 16 are each amended to read as follows:

(((~~(1) A person convicted under RCW 46.61.502(6), 46.61.504(6), 46.61.520(1)(a), or 46.61.522(1)(b) shall, as a condition of community custody imposed under RCW 9.94A.545 or community placement imposed under RCW 9.94A.660, complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, as defined under RCW 46.61.516 that has been approved by the department of social and health services. This report shall be forwarded to the department of licensing. If the person is found to have an alcohol or drug problem that requires treatment, the person shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the person is found not to have an alcohol or drug problem that requires treatment, he or she shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The convicted person shall pay all costs for any evaluation, education, or treatment required by this section, unless the person is eligible for an existing program offered or approved by the department of social and health services. Nothing in chapter 348, Laws of 1991 requires the addition of new treatment or assessment facilities nor affects the department of social and health services use of existing programs and facilities authorized by law.~~

~~(2)~~)) As provided for under RCW 46.20.285, the department shall revoke the license, permit to drive, or a nonresident privilege of a person convicted of vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522. The department shall determine the eligibility of a person convicted of vehicular homicide under RCW 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to receive a license based upon the report provided by the designated alcoholism treatment facility or probation department designated pursuant to section 9(4)(b) of this act, and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified.

Sec. 47. RCW 72.09.015 and 2007 c 483 s 202 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in section 52 of this act.

(4) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(((~~(4)~~))) (5) "County" means a county or combination of counties.

(((~~(5)~~))) (6) "Department" means the department of corrections.

(((~~(6)~~))) (7) "Earned early release" means earned release as authorized by RCW 9.94A.728.

(((~~(7)~~))) (8) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

(((~~(8)~~))) (9) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

(((~~(9)~~))) (10) "Good conduct" means compliance with department rules and policies.

(((~~(10)~~))) (11) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

(((~~(11)~~))) (12) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

(((~~(12)~~))) (13) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

(((~~(13)~~))) (14) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the ((~~offenders' [offender's]~~)) offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(((~~(14)~~))) (15) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

(((~~(15)~~))) (16) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

(((~~(16)~~))) (17) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

((~~(17)~~)) (18) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

((~~(18)~~)) (19) "Secretary" means the secretary of corrections or his or her designee.

((~~(19)~~)) (20) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

((~~(20)~~)) (21) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

((~~(21)~~)) (22) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

((~~(22)~~)) (23) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

((~~(23)~~)) (24) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

((~~(24)~~)) (25) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

Sec. 48. RCW 72.09.270 and 2007 c 483 s 203 are each amended to read as follows:

(1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every offender who is committed to the jurisdiction of the department except:

(a) Offenders who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) Offenders who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all offenders using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each offender. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the offender, including any learning disabilities, substance abuse or mental health issues, and social or behavior deficits.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than forty-five days of being sentenced to the jurisdiction of the department of corrections.

(b) The offender's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than sixty days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the inmate's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the offender's children and family;

(b) An individualized portfolio for each offender that includes the offender's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the offender during the period of incarceration through reentry into the community that addresses the needs of the offender including education, employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) Prior to discharge of any offender, the department shall:

(i) Evaluate the offender's needs and, to the extent possible, connect the offender with existing services and resources that meet those needs; and

(ii) Connect the offender with a community justice center and/or community transition coordination network in the area in which the offender will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an offender's individual reentry plan, the department shall maximize the period of partial confinement for the offender as allowed pursuant to RCW 9.94A.728 to facilitate the offender's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the offender's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8)(a) In determining the county of discharge for an offender released to community custody ((~~or community placement~~)), the department may not approve a residence location that is not in the offender's county of origin unless it is determined by the department that the offender's return to his or her county of origin would be inappropriate considering any court-ordered condition of the offender's sentence, victim safety concerns, negative influences on the offender in the community, or the location of family or other sponsoring persons or organizations that will support the offender.

(b) If the offender is not returned to his or her county of origin, the department shall provide the law and justice council of the county in which the offender is placed with a written explanation.

(c) For purposes of this section, the offender's county of origin means the county of the offender's first felony conviction in Washington.

(9) Nothing in this section creates a vested right in programming, education, or other services.

Sec. 49. RCW 72.09.345 and 1997 c 364 s 4 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses.

(2) In order for public agencies to have the information necessary to notify the public as authorized in RCW 4.24.550, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders. The committee shall assess, on a case-by-case basis, the public risk posed by sex offenders who are: (a) Preparing for their release from confinement for sex offenses committed on or after July 1, 1984; and (b) accepted from another state under a reciprocal agreement under the interstate compact authorized in chapter 72.74 RCW.

(3) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

(4) The committee shall review each sex offender under its authority before the offender's release from confinement or start of the offender's term of ((~~community placement or~~)) community custody in order to: (a) Classify the offender into a risk level for the purposes of public notification under RCW 4.24.550; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW 72.09.340; and (c) make appropriate referrals.

(5) The committee shall classify as risk level I those sex offenders whose risk assessments indicate a low risk of reoffense within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate a moderate risk of reoffense within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate a high risk of reoffense within the community at large.

(6) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

Sec. 50. RCW 72.09.580 and 1999 c 196 s 12 are each amended to read as follows:

Except as specifically prohibited by other law, and for purposes of determining, modifying, or monitoring compliance with conditions of community custody((~~, community placement, or community supervision as authorized under RCW 9.94A.505 and 9.94A.545~~)), the department:

(1) Shall have access to all relevant records and information in the possession of public agencies relating to offenders, including police reports, prosecutors' statements of probable cause, complete criminal history

information, psychological evaluations and psychiatric hospital reports, sex offender treatment program reports, and juvenile records; and

(2) May require periodic reports from providers of treatment or other services required by the court or the department, including progress reports, evaluations and assessments, and reports of violations of conditions imposed by the court or the department.

NEW SECTION. **Sec. 51.** (1) This chapter codifies sentencing provisions that may be applicable to sentences for crimes committed prior to July 1, 2000.

(2) This chapter supplements chapter 9.94A RCW and should be read in conjunction with that chapter.

NEW SECTION. **Sec. 52.** In addition to the definitions set out in RCW 9.94A.030, the following definitions apply for purposes of this chapter:

(1) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(2) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(3) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

NEW SECTION. **Sec. 53.** The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate

NEW SECTION. **Sec. 54.** A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with

a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to RCW 9.94A.728(1).

NEW SECTION. **Sec. 55.** (1) Sections 6 through 58 of this act apply to all sentences imposed or reimposed on or after August 1, 2009, for any crime committed on or after the effective date of this section.

(2) Sections 6 through 58 of this act also apply to all sentences imposed or reimposed on or after August 1, 2009, for crimes committed prior to the effective date of this section, to the extent that such application is constitutionally permissible.

(3) To the extent that application of sections 6 through 58 of this act is not constitutionally permissible with respect to any offender, the sentence for such offender shall be governed by the law as it existed before the effective date of this section, or on such prior date as may be constitutionally required, notwithstanding any amendment or repeal of provisions of such law.

(4) If application of sections 6 through 58 of this act is not constitutionally permissible with respect to any offender, the judgment and sentence shall specify the particular sentencing provisions that will not apply to such offender. Whenever practical, the judgment and sentence shall use the terminology set out in this act.

(5) The sentencing guidelines commission shall prepare a summary of the circumstances under which application of sections 6 through 58 of this act is not constitutionally permissible. The summary should include recommendations of conditions that could be included in judgments and sentences in order to prevent unconstitutional application of the act. This summary shall be incorporated into the *Adult Sentencing Guidelines Manual*.

(6) Sections 6 through 58 of this act shall not affect the enforcement of any sentence that was imposed prior to August 1, 2009, unless the offender is resentenced after that date.

NEW SECTION. **Sec. 56.** (1) The following sections are recodified as part of a new chapter in Title 9 RCW: RCW 9.94A.628, 9.94A.634, 9.94A.700, 9.94A.705, and 9.94A.710.

(2) RCW 9.94A.610 (as amended by this act), 9.94A.612 (as amended by this act), 9.94A.614, 9.94A.616, 9.94A.618, and 9.94A.620 are each recodified as sections in chapter 72.09 RCW.

(3) Sections 51 through 54 of this act are added to the new chapter created in subsection (1) of this section.

(4) The code reviser is authorized to improve the organization of chapter 9.94A RCW by renumbering existing sections and adding subchapter headings.

(5) The code reviser shall correct any cross-references to sections affected by this section in other sections of the code.

NEW SECTION. **Sec. 57.** The following acts or parts of acts are each repealed:

(1) RCW 9.94A.545 (Community custody) and 2006 c 128 s 4, 2003 c 379 s 8, 2000 c 28 s 13, 1999 c 196 s 10, 1988 c 143 s 23, & 1984 c 209 s 22;

(2) RCW 9.94A.713 (Nonpersistent offenders—Conditions) and 2006 c 130 s 1 & 2001 2nd sp.s. c 12 s 304;

(3) RCW 9.94A.715 (Community custody for specified offenders—Conditions) and 2006 c 130 s 2, 2006 c 128 s 5, 2003 c 379 s 6, 2001 2nd sp.s. c 12 s 302, 2001 c 10 s 5, & 2000 c 28 s 25;

(4) RCW 9.94A.720 (Supervision of offenders) and 2003 c 379 s 7, 2002 c 175 s 14, & 2000 c 28 s 26;

(5) RCW 9.94A.800 (Sex offender treatment in correctional facility) and 2000 c 28 s 34;

(6) RCW 9.94A.830 (Legislative finding and intent—Commitment of felony sexual offenders after July 1, 1987) and 1987 c 402 s 2 & 1986 c 301 s 1; and

(7) RCW 79A.60.070 (Conviction under RCW 79A.60.050 or 79A.60.060—Community supervision or community placement—Conditions) and 2000 c 11 s 96 & 1998 c 219 s 3.

NEW SECTION. **Sec. 58.** The repealers in section 57 of this act shall not affect the validity of any sentence that was imposed prior to the effective date of this section or the authority of the department of corrections to supervise any offender pursuant to such sentence.

NEW SECTION. **Sec. 59.** The code reviser shall report to the 2009 legislature on any amendments necessary to accomplish the purposes of this act.

NEW SECTION. **Sec. 60.** Section 24 of this act expires July 1, 2010.

NEW SECTION. **Sec. 61.** Sections 6 through 60 of this act take effect August 1, 2009.

NEW SECTION. **Sec. 62.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House March 12, 2008.
Passed by the Senate March 12, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 232

[House Bill 2835]

OUT-OF-HOME CARE PLACEMENTS—RECORD CHECKS

AN ACT Relating to requiring federal name-based criminal history record checks when a child is placed in out-of-home care in an emergency situation; amending RCW 74.15.040; adding a new section to chapter 26.44 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the safety of children in foster care depends upon receipt of comprehensive, accurate, and timely information about the background of prospective foster parents. It is vital to ensure that all relevant information about prospective foster parents is received and carefully reviewed. The legislature believes that some foster parents may have previously resided in other countries and that it is important to determine whether those countries have background information on the prospective foster parents that might impact the safety of children in their care.

NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44 RCW to read as follows:

(1) During an emergency situation when a child must be placed in out-of-home care due to the absence of appropriate parents or custodians, the department shall request a federal name-based criminal history record check of each adult residing in the home of the potential placement resource. Upon receipt of the results of the name-based check, the department shall provide a complete set of each adult resident's fingerprints to the Washington state patrol for submission to the federal bureau of investigation within fourteen calendar days from the date the name search was conducted. The child shall be removed from the home immediately if any adult resident fails to provide fingerprints and written permission to perform a federal criminal history record check when requested.

(2) When placement of a child in a home is denied as a result of a name-based criminal history record check of a resident, and the resident contests that denial, the resident shall, within fifteen calendar days, submit to the department a complete set of the resident's fingerprints with written permission allowing the department to forward the fingerprints to the Washington state patrol for submission to the federal bureau of investigation.

(3) The Washington state patrol and the federal bureau of investigation may each charge a reasonable fee for processing a fingerprint-based criminal history record check.

(4) As used in this section, "emergency placement" refers to those limited instances when the department is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

Sec. 3. RCW 74.15.040 and 1982 c 118 s 7 are each amended to read as follows:

An agency seeking to accept and serve children, developmentally disabled persons, or expectant mothers as a foster-family home shall make application for license in such form and substance as required by the department. The department shall maintain a list of applicants through which placement may be undertaken. However, agencies and the department shall not place a child, developmentally disabled person, or expectant mother in a home until the home is licensed. The department shall inquire whether an applicant has previously resided in any other state or foreign country and shall check databases available to it through the Washington state patrol and federal bureau of investigation to ascertain whether the applicant has ever been the subject of a conviction or civil finding outside of the state of Washington that bears upon the fitness of the applicant to serve as a foster-family home. Foster-family homes shall be inspected prior to licensure, except that inspection by the department is not required if the foster-family home is under the supervision of a licensed agency upon certification to the department by the licensed agency that such homes meet the requirements for foster homes as adopted pursuant to chapter 74.15 RCW and RCW 74.13.031.

***NEW SECTION.** Sec. 4. 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.*

***Sec. 4 was vetoed. See message at end of chapter.**

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 28, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State March 28, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 4, House Bill 2835 entitled:

"AN ACT Relating to requiring federal name-based criminal history record checks when a child is placed in out-of-home care in an emergency situation."

Section 4 is an emergency clause providing the bill with an immediate effective date. The Federal Bureau of Investigation has notified the State that it will extend provisional access to its name/descriptor criminal background check database until this bill takes effect. An emergency clause is therefore unnecessary.

For this reason, I have vetoed Section 4 of House Bill 2835.

With the exception of Section 4, House Bill 2835 is approved."

CHAPTER 233

[Substitute House Bill 2858]

METAL PROPERTY

AN ACT Relating to expanding metal property provisions; amending RCW 19.290.010, 19.290.020, 19.290.030, 19.290.040, 19.290.050, 19.290.060, 19.290.070, 19.290.090, and 9.94A.535; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.290.010 and 2007 c 377 s 1 are each amended to read as follows:

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

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under RCW 19.290.030.

(2) "Commercial enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including but not limited to a telephone, commercial mobile radio services, cable, electric, water, natural gas, or other utility, or railroad; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one inch tubing, forty-two inches high with four-inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.

(4) "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys. "Nonferrous metal property" does not include precious metals.

(5) "Precious metals" means gold, silver, and platinum.

(6) "Private metal property" means catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

(7) "Record" means a paper, electronic, or other method of storing information.

((~~(7)~~)) (8) "Scrap metal business" means a scrap metal supplier, scrap metal recycling center, and scrap metal processor.

((~~(8)~~)) (9) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device, or shredding device for recycling.

((~~(9)~~)) (10) "Scrap metal recycling center" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the state.

((~~(10)~~)) (11) "Scrap metal supplier" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property or nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycling center or scrap metal processor and that does not maintain a fixed business location in the state.

((~~(11)~~)) (12) "Transaction" means a pledge, or the purchase of, or the trade of any item of private metal property or nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of private metal property or nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

Sec. 2. RCW 19.290.020 and 2007 c 377 s 2 are each amended to read as follows:

(1) At the time of a transaction, every scrap metal business doing business in this state shall produce wherever that business is conducted an accurate and legible record of each transaction involving private metal property or nonferrous metal property. This record must be written in the English language, documented on a standardized form or in electronic form, and contain the following information:

(a) The signature of the person with whom the transaction is made;

(b) The time, date, location, and value of the transaction;

(c) The name of the employee representing the scrap metal business in the transaction;

(d) The name, street address, and telephone number of the person with whom the transaction is made;

(e) The license plate number and state of issuance of the license plate on the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;

(f) A description of the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;

(g) The current driver's license number or other government-issued picture identification card number of the seller or a copy of the seller's government-issued picture identification card; and

(h) A description of the predominant types of private metal property or nonferrous metal property subject to the transaction, including the property's classification code as provided in the institute of scrap recycling industries scrap specifications circular, 2006, and weight, quantity, or volume.

(2) For every transaction that involves private metal property or nonferrous metal property, every scrap metal business doing business in the state shall require the person with whom a transaction is being made to sign a declaration. The declaration may be included as part of the transactional record required under subsection (1) of this section, or on a receipt for the transaction. The declaration must state substantially the following:

"I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

The declaration must be signed and dated by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

(3) The record and declaration required under this section must be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, and must be maintained wherever that business is conducted for one year following the date of the transaction.

Sec. 3. RCW 19.290.030 and 2007 c 377 s 3 are each amended to read as follows:

(1) No scrap metal business may enter into a transaction to purchase or receive private metal property or nonferrous metal property from any person who cannot produce at least one piece of current government-issued picture identification, including a valid driver's license or identification card issued by any state.

(2) No scrap metal business may purchase or receive private metal property or commercial metal property unless the seller: (a) Has a commercial account with the scrap metal business; (b) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or (c) can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

(3) No scrap metal business may enter into a transaction to purchase or receive metallic wire that was burned in whole or in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned.

(4) No transaction involving private metal property or nonferrous metal property valued at greater than thirty dollars may be made in cash or with any

person who does not provide a street address under the requirements of RCW 19.290.020. For transactions valued at greater than thirty dollars, the person with whom the transaction is being made may only be paid by a nontransferable check, mailed by the scrap metal business to a street address provided under RCW 19.290.020, no earlier than ten days after the transaction was made. A transaction occurs on the date provided in the record required under RCW 19.290.020.

(5) No scrap metal business may purchase or receive beer kegs from anyone except a manufacturer of beer kegs or licensed brewery.

Sec. 4. RCW 19.290.040 and 2007 c 377 s 4 are each amended to read as follows:

(1) Every scrap metal business must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. That record, at a minimum, must include the following information:

(a) The full name of the commercial enterprise or commercial account;

(b) The business address and telephone number of the commercial enterprise or commercial account; and

(c) The full name of the person employed by the commercial enterprise who is authorized to deliver private metal property, nonferrous metal property, and commercial metal property to the scrap metal business.

(2) The record maintained by a scrap metal business for a commercial account must document every purchase or receipt of private metal property, nonferrous metal property, and commercial metal property from the commercial enterprise. The documentation must include, at a minimum, the following information:

(a) The time, date, and value of the property being purchased or received;

(b) A description of the predominant types of property being purchased or received; and

(c) The signature of the person delivering the property to the scrap metal business.

Sec. 5. RCW 19.290.050 and 2007 c 377 s 5 are each amended to read as follows:

(1) Upon request by any commissioned law enforcement officer of the state or any of its political subdivisions, every scrap metal business shall furnish a full, true, and correct transcript of the records from the purchase or receipt of private metal property, nonferrous metal property, and commercial metal property involving a specific individual, vehicle, or item of private metal property, nonferrous metal property, or commercial metal property. This information may be transmitted within a specified time of not less than two business days to the applicable law enforcement agency electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police or the county's chief law enforcement officer.

(2) If the scrap metal business has good cause to believe that any private metal property, nonferrous metal property, or commercial metal property in his or her possession has been previously lost or stolen, the scrap metal business shall promptly report that fact to the applicable commissioned law enforcement

officer of the state, the chief of police, or the county's chief law enforcement officer, together with the name of the owner, if known, and the date when and the name of the person from whom it was received.

Sec. 6. RCW 19.290.060 and 2007 c 377 s 6 are each amended to read as follows:

(1) Following notification, either verbally or in writing, from a commissioned law enforcement officer of the state or any of its political subdivisions that an item of private metal property, nonferrous metal property, or commercial metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification upon the property. The scrap metal business shall hold the property for a period of time as directed by the applicable law enforcement agency up to a maximum of ten business days.

(2) A commissioned law enforcement officer of the state or any of its political subdivisions shall not place on hold any item of private metal property, nonferrous metal property, or commercial metal property unless that law enforcement agency reasonably suspects that the property is a lost or stolen item. Any hold that is placed on the property must be removed within ten business days after the property on hold is determined not to be stolen or lost and the property must be returned to the owner or released.

Sec. 7. RCW 19.290.070 and 2007 c 377 s 7 are each amended to read as follows:

It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of private metal property, nonferrous metal property, or commercial metal property in order to deceive a scrap metal business;

(2) Any scrap metal business to enter into a transaction to purchase or receive any private metal property, nonferrous metal property, or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated;

(3) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(4) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property from any person under the age of eighteen years or any person who is discernibly under the influence of intoxicating liquor or drugs;

(5) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver

methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past ten years whether the person is acting in his or her own behalf or as the agent of another;

(6) Any person to sign the declaration required under RCW 19.290.020 knowing that the private metal property or nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under RCW 19.290.020 constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the private metal property or nonferrous metal property subject to the transaction was stolen;

(7) Any scrap metal business to possess private metal property or commercial metal property that was not lawfully purchased or received under the requirements of this chapter; or

(8) Any scrap metal business to engage in a series of transactions valued at less than thirty dollars with the same seller for the purposes of avoiding the requirements of RCW 19.290.030(4).

Sec. 8. RCW 19.290.090 and 2007 c 377 s 9 are each amended to read as follows:

The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) Metal from the components of vehicles acquired by vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW, and acquired in accordance with those laws;

(3) Persons in the business of operating an automotive repair facility as defined under RCW 46.71.011; and

(4) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

Sec. 9. RCW 9.94A.535 and 2007 c 377 s 10 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury -Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

Passed by the House March 12, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 234

[House Bill 3011]

INSURERS—SECURITIES—SAFEGUARDING

AN ACT Relating to safeguarding securities owned by insurers; amending RCW 48.13.450, 48.13.455, 48.13.460, 48.13.465, 48.13.475, and 48.13.490; and adding a new section to chapter 48.13 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.13.450 and 2000 c 221 s 1 are each amended to read as follows:

The definitions in this section apply throughout RCW 48.13.450 through 48.13.475 unless the context clearly requires otherwise.

(1) "Agent" means a national bank, state bank, trust company, or broker/dealer that maintains an account in its name in a clearing corporation or that is a member of the federal reserve system and through which a custodian participates in a clearing corporation, including the treasury/reserve automated debt entry securities system (TRADES) or treasury direct systems; except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to laws of a foreign country as a condition of doing business therein, "agent" may include a corporation that is organized or existing under the laws of a foreign country and that is legally qualified under those laws to accept custody of securities.

(2) "Broker/dealer" means a broker or dealer as defined in RCW 62A.8-102(1)(c), that is registered with and subject to the jurisdiction of the securities and exchange commission, maintains membership in the securities investor protection corporation, and has a tangible net worth equal to or greater than two hundred fifty million dollars.

((~~(2)~~)) (3) "Clearing corporation" means a ((~~depository~~)) corporation ((~~which maintains a book entry accounting system and which meets the requirements of~~)) as defined in RCW 62A.8-102(1)(e) that is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "clearing corporation" may include a corporation that is organized or existing under the laws of any foreign country and is legally qualified under such laws to effect transactions in securities by computerized book-entry. "Clearing corporation" also includes treasury/reserve automated debt entry securities system and treasury direct book-entry securities systems established pursuant to 31 U.S.C. Sec. 3100 et seq., 12 U.S.C. pt. 391, and 5 U.S.C. pt. 301.

((~~(3)~~)) (4) "Commissioner" means the insurance commissioner of the state of Washington.

(((~~(4) "Federal reserve book-entry securities system" means the computerized systems sponsored by the United States department of the treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and such agencies and instrumentalities, respectively, and managed by the federal reserve system for participating financial institutions.~~

~~(5) "Participating financial institution" means a depositary financial institution such as a national bank, state bank, savings and loan, credit union, or trust company that is:~~

~~(a) Authorized to participate in the federal reserve book-entry system; and~~

~~(b) Licensed by the United States or the banking authorities in its state of domicile and is regularly examined by the licensing authority.~~

~~(6) "Qualified~~)) (5) "Custodian" means ((~~either a participating financial institution or a clearing corporation, or both. A qualified custodian does not include a broker~~)):

(a) A national bank, state bank, or trust company that shall, at all times acting as a custodian, be no less than adequately capitalized as determined by the standards adopted by United States banking regulators and that is regulated by either state banking laws or is a member of the federal reserve system and that is legally qualified to accept custody of securities; except that with respect to securities issued by institutions organized or existing under the laws of a foreign country, or securities used to meet the deposit requirements pursuant to laws of a foreign country as a condition of doing business therein, "custodian" may include a bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof that shall at all times acting as a custodian be no less than adequately capitalized as determined by the standards adopted by the international banking authorities and legally qualified to accept custody of securities; or

(b) A broker/dealer.

(6) "Custodied securities" means securities held by the custodian or its agent or in a clearing corporation, including the treasury/reserve automated debt equity securities system (TRADES) or treasury direct systems.

(7) "Securities" means instruments as defined in RCW 62A.8-102(1)(o).

(8) "Securities certificate" has the same meaning as in RCW 62A.8-102(1)(d).

(9) "Tangible net worth" means shareholders equity, less intangible assets, as reported in the broker/dealer's most recent annual or transition report pursuant to section 13 or 15(d) of the securities exchange act of 1934 (S.E.C. Form 10-K) filed with the securities and exchange commission.

(10) "Treasury/reserve automated debt entry securities system" ("TRADES") and "treasury direct" mean book-entry securities systems established pursuant to 31 U.S.C. Sec. 3100 et seq., 12 U.S.C. pt. 391, and 5 U.S.C. pt. 301, with the operation of TRADES and treasury direct subject to 31 C.F.R. pt. 357 et seq.

Sec. 2. RCW 48.13.455 and 2000 c 221 s 2 are each amended to read as follows:

Notwithstanding any other provision of law, a domestic insurance company may deposit or arrange for the deposit of securities held in or purchased for its

general account and its separate accounts in a clearing corporation ((~~or the federal reserve book-entry securities system~~)). When securities are deposited with a clearing corporation, securities certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited with such clearing corporation by any person, regardless of the ownership of such securities, and securities certificates representing securities of small denominations may be merged into one or more certificates of larger denominations. The records of any ((~~participating financial institution~~)) custodian through which an insurance company holds securities ((~~in the federal reserve book-entry securities system, and the records of any custodian banks through which an insurance company holds securities in a clearing corporation,~~)) shall at all times show that such securities are held for such insurance company and for which accounts thereof. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such clearing corporation ((~~or in the federal reserve book-entry securities system~~)) without((~~, in either case,~~)) physical delivery of securities certificates representing such securities.

Sec. 3. RCW 48.13.460 and 2000 c 221 s 3 are each amended to read as follows:

The following are the only authorized methods of holding securities:

(1) A domestic insurance company may hold securities in definitive certificates;

(2) A domestic insurance company may, pursuant to an agreement, designate a ((~~participating financial institution or institutions as its~~)) custodian through which it can transact and maintain book-entry securities on behalf of the insurance company; or

(3) A domestic insurance company may, pursuant to an agreement, participate in depository systems of clearing corporations directly or through a custodian ((~~bank~~)).

Sec. 4. RCW 48.13.465 and 2000 c 221 s 4 are each amended to read as follows:

A domestic insurance company using the methods of holding securities under RCW 48.13.460 (2) or (3) is required to receive a confirmation from:

(1) The ((~~participating financial institution or the qualified~~)) custodian whenever securities are received or surrendered pursuant to the domestic insurance company's instructions to a securities broker; or

(2) The securities broker provided that the domestic insurance company has given the ((~~participating financial institution or qualified~~)) custodian and the securities broker matching instructions authorizing the transaction, which have been confirmed by the ((~~participating financial institution or qualified~~)) custodian prior to surrendering funds or securities to conduct the transaction.

Sec. 5. RCW 48.13.475 and 2000 c 221 s 6 are each amended to read as follows:

(1) Notwithstanding the maintenance of securities with a ((~~qualified~~)) custodian pursuant to agreement, if the commissioner:

(a) Has reasonable cause to believe that the domestic insurer:

(i) Is conducting its business and affairs in such a manner as to threaten to render it insolvent;

(ii) Is in a hazardous condition or is conducting its business and affairs in a manner that is hazardous to its policyholders, creditors, or the public; or

(iii) Has committed or is committing or has engaged or is engaging in any act that would constitute grounds for rendering it subject to rehabilitation or liquidation proceedings; or

(b) Determines that irreparable loss and injury to the property and business of the domestic insurer has occurred or may occur unless the commissioner acts immediately;

then the commissioner may, without hearing, order the insurer and the ((~~qualified~~)) custodian promptly to effect the transfer of the securities to another ((~~qualified~~)) custodian approved by the commissioner. Upon receipt of the order, the ((~~qualified~~)) custodian shall promptly effect the transfer of the securities. Notwithstanding the pendency of any hearing or request for hearing, the order shall be complied with by those persons subject to that order. Any challenge to the validity of the order shall be made under chapter 48.04 RCW, however, the stay of action provisions of RCW 48.04.020 do not apply. It is the responsibility of both the insurer and the ((~~qualified~~)) custodian to oversee that compliance with the order is completed as expeditiously as possible. Upon receipt of an order, there shall be no trading of the securities without specific instructions from the commissioner until the securities are received by the new ((~~qualified~~)) custodian, except to the extent trading transactions are in process on the day the order is received by the insurer and the failure to complete the trade may result in loss to the insurer's account. Issuance of an order does not affect the ((~~qualified~~)) custodian's liabilities with regard to the securities that are the subject of the order.

(2) No person other than the insurer has standing at the hearing by the commissioner or for any judicial review of the order.

Sec. 6. RCW 48.13.490 and 2000 c 221 s 7 are each amended to read as follows:

The commissioner may adopt rules ((~~to implement and administer RCW 48.13.450 through 48.13.475~~)) governing the deposit by insurance companies of securities with clearing corporations, including establishing standards for national banks, state banks, trust companies, and brokers/dealers to qualify as custodians for insurance company securities.

NEW SECTION. **Sec. 7.** A new section is added to chapter 48.13 RCW to read as follows:

(1) An insurance company may, by written agreement with a custodian, provide for the custody of its securities with that custodian. The securities that are the subject of the agreement may be held by the custodian or its agent or in a clearing corporation.

(2) The agreement shall be in writing and shall be authorized by a resolution of the board of directors of the insurance company or of an authorized committee of the board. The terms of the agreement shall comply with the following:

(a) Securities certificates held by the custodian shall be held separate from the securities certificates of the custodian and all of its customers;

(b) Securities held indirectly by the custodian and securities in a clearing corporation shall be separately identified on the custodian's official records as being owned by the insurance company. The records shall identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation. If the securities are in a clearing corporation, the records shall also identify where the securities are and the name of the clearing corporation; and if the securities are held by an agent, the records shall also identify the name of the agent;

(c) All custodied securities that are registered shall be registered in the name of the company or in the name of the nominee of the company or in the name of the custodian or its nominee, or, if in a clearing corporation, in the name of the clearing corporation or its nominee;

(d) Custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except custodied securities used to meet the deposit requirements;

(e) The custodian shall be required to send or cause to be sent to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. Confirmation of all transfers shall be provided to the insurance company in hard copy or electronic format. In addition, the custodian shall be required to furnish, no less than monthly, the insurance company with reports of various holdings of custodied securities at times and containing information reasonably requested by the insurance company. The custodian's trust committee's annual reports of its review of the insurer trust accounts shall also be provided to the insurer. Reports and verifications may be transmitted in electronic or paper format;

(f) During the course of the custodian's regular business hours, an officer or employee of the insurance company, an independent accountant selected by the insurance company, and a representative of an appropriate regulatory body shall be entitled to examine, on the premise of the custodian, the custodian's records relating to the custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company;

(g) The custodian and its agents shall be required to send to the insurance company:

(i) All reports that they receive from a clearing corporation on their respective systems of internal accounting control; and

(ii) Reports prepared by outside auditors on the custodians or its agents internal accounting control of custodied securities that the insurance company may reasonably request;

(h) The custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the insurance company's annual statement and supporting schedules and information required in an audit of the financial statements of the insurance company;

(i) The custodian shall provide, upon written request from an appropriate officer of the insurance company, the appropriate affidavits;

(j) A national bank, state bank, or trust company shall secure and maintain insurance protection in an adequate amount covering the bank's or trust company's duties and activities as custodian for the insurer's assets, and shall state in the custody agreement that the protection is in compliance with the

requirements of the custodian's banking regulator. A broker/dealer shall secure and maintain insurance protection for each insurance company's custodied securities in excess of that provided by the securities investor protection corporation in an amount equal to or greater than the market value of each respective insurance company's custodied securities. The commissioner may determine whether the type of insurance is appropriate and whether the amount of coverage is adequate;

(k) The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers or employees or agents, or burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction;

(l) In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company as provided in (k) of this subsection, the custodian shall promptly replace the securities of the value thereof and the value of any loss of rights or privileges resulting from the loss of securities;

(m) The custodian will not be liable for a failure to take an action required under the agreement in the event and to the extent that the taking of the action is prevented or delayed by war (whether declared or not, including existing wars), revolution, insurrection, riot, civil commotion, accident, fire, explosion, labor stoppage and strikes, laws, regulations, orders, or other acts of any governmental authority, which are beyond its reasonable control;

(n) In the event that the custodian gains entry in a clearing corporation through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of custodied securities as the custodian. However, if the agent is subject to regulation under the laws of a jurisdiction that are different from the laws of the jurisdiction that regulates the custodian, the commissioner may accept a standard of liability applicable to the agent that is different from the standard of liability applicable to the custodian;

(o) The custodian shall provide written notification to the office of the insurance commissioner if the custodial agreement with the insurer has been terminated or if one hundred percent of the account assets in any one custody account have been withdrawn. This notification shall be remitted to the commissioner within three business days of the withdrawal of one hundred percent of the account assets.

Passed by the House February 4, 2008.
Passed by the Senate March 6, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 235

[Substitute House Bill 3120]

CONSTRUCTION—ENVIRONMENTALLY CERTIFIED—TAX EXEMPTION

AN ACT Relating to a sales and use tax exemption for environmentally certified residential and commercial construction; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that green building, also called "sustainable" or "high-performance" building, has significant environmental benefits. Buildings consume thirty-six percent of the energy used in the United States, more than factories and automobiles, and they generate thirty percent of the nation's greenhouse gas emissions. The construction of commercial, residential, public, or institutional buildings using energy-efficient techniques and environmentally sustainable products also connects to the state's climate change goals.

(b) The legislature further finds that standards for green building provide an effective framework for green building practices. Some techniques have been shown to reduce building energy costs by twenty to fifty percent and water usage by at least fifty percent outdoors and thirty percent indoors. It is in the interest of the state to encourage the best green building practices through targeted incentives and policies.

(c) The legislature intends to establish a connection between green construction and the need for local governments to adopt "green" land use provisions, permitting standards, and building codes that allow green building, in order to achieve the most effective climate change policies.

(2) The department of community, trade, and economic development shall conduct a study to determine the potential feasibility and effectiveness of providing tax incentives to encourage green building in commercial, residential, and public buildings. The department of revenue shall provide any tax-related data necessary for the department of community, trade, and economic development to perform the study.

(3) In conducting the study, the department of community, trade, and economic development shall:

(a) Identify existing tax incentives with the primary purpose of encouraging green building;

(b) Propose tax incentives that would encourage green building, with special emphasis on sales and use tax exemptions on green building construction activities and business and occupation tax incentives for contractors or architects that build or design green buildings;

(c) Provide an estimate on the fiscal cost for each tax incentive identified under (b) of this subsection;

(d) Provide an estimate of cost savings and emission reductions for the estimated number of buildings that would qualify for a tax incentive identified under (b) of this subsection;

(e) Recommend other tax and programmatic policy changes that would encourage green building;

(f) Evaluate whether tax incentives should target communities that encourage green building; and

(g) Evaluate current trends in green building and whether tax incentives would support these trends.

(4) The department of community, trade, and economic development may include any other information in the study that it deems necessary for the legislative evaluation of potential tax incentives to encourage green building.

(5) By December 1, 2008, the department of community, trade, and economic development shall report its findings and recommendations to the appropriate committees of the legislature.

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 236

[Substitute House Bill 3149]

STATE INVESTMENT BOARD—PERSONNEL—COMPENSATION

AN ACT Relating to compensation of state investment board personnel; and amending RCW 43.33A.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.33A.100 and 2001 c 302 s 1 are each amended to read as follows:

The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the executive director, a confidential secretary, and all investment officers, including the deputy director for investment management, employed by the investment board shall be established by the state investment board. The investment board is authorized to maintain a retention pool within the state investment board expense account under RCW 43.33A.160, from the earnings of the funds managed by the board, pursuant to a performance management and compensation program developed by the investment board, in order to address recruitment and retention problems and to reward performance. The compensation levels and incentive compensation for investment officers shall be limited to the average of total compensation provided by state or other public funds of similar size, based upon a biennial survey conducted by the investment board, with review and comment by the joint legislative audit and review committee. However, in any fiscal year the ((~~salary increases~~)) incentive compensation granted by the investment board from the retention pool to investment officers pursuant to this section may not exceed ((~~an average of five~~)) thirty percent. Disbursements from the retention pool shall be from legislative appropriations and shall be on authorization of the board's executive director or the director's designee.

The investment board shall provide notice to the director of the department of personnel, the director of financial management, and the chairs of the house of representatives and senate fiscal committees of proposed changes to the compensation levels for the positions. The notice shall be provided not less than sixty days prior to the effective date of the proposed changes.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in ((~~this 1980 act~~)) chapter 3, Laws of 1981 shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by ((~~this 1980 act~~)) chapter 3, Laws of 1981 shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981.

Passed by the House March 11, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 237

[House Bill 3188]

WASTE VEGETABLE OIL—TAX EXEMPTION

AN ACT Relating to exempting waste vegetable oil from excise tax; amending RCW 82.38.080; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.38.080 and 1998 c 176 s 60 are each amended to read as follows:

(1) There is exempted from the tax imposed by this chapter, the use of fuel for:

(a) Street and highway construction and maintenance purposes in motor vehicles owned and operated by the state of Washington, or any county or municipality;

(b) Publicly owned fire fighting equipment;

(c) Special mobile equipment as defined in RCW 46.04.552;

(d) Power pumping units or other power take-off equipment of any motor vehicle which is accurately measured by metering devices that have been specifically approved by the department or which is established by any of the following formulae:

(i) Pumping propane, or fuel or heating oils or milk picked up from a farm or dairy farm storage tank by a power take-off unit on a delivery truck, at a rate determined by the department: PROVIDED, That claimant when presenting his or her claim to the department in accordance with this chapter, shall provide to the claim, invoices of propane, or fuel or heating oil delivered, or such other appropriate information as may be required by the department to substantiate his or her claim;

(ii) Operating a power take-off unit on a cement mixer truck or a load compactor on a garbage truck at the rate of twenty-five percent of the total gallons of fuel used in such a truck; or

(iii) The department is authorized to establish by rule additional formulae for determining fuel usage when operating other types of equipment by means of power take-off units when direct measurement of the fuel used is not feasible. The department is also authorized to adopt rules regarding the usage of on board computers for the production of records required by this chapter;

(e) Motor vehicles owned and operated by the United States government;

(f) Heating purposes;

(g) Moving a motor vehicle on a public highway between two pieces of private property when said moving is incidental to the primary use of the motor vehicle;

(h) Transportation services for persons with special transportation needs by a private, nonprofit transportation provider regulated under chapter 81.66 RCW;

(i) Vehicle refrigeration units, mixing units, or other equipment powered by separate motors from separate fuel tanks; ((~~and~~))

(j) The operation of a motor vehicle as a part of or incidental to logging operations upon a highway under federal jurisdiction within the boundaries of a federal area if the federal government requires a fee for the privilege of operating the motor vehicle upon the highway, the proceeds of which are reserved for constructing or maintaining roads in the federal area, or requires maintenance or construction work to be performed on the highway for the privilege of operating the motor vehicle on the highway; and

(k) Waste vegetable oil as defined under section 2 of this act if the oil is used to manufacture biodiesel.

(2) There is exempted from the tax imposed by this chapter the removal or entry of special fuel under the following circumstances and conditions:

(a) If it is the removal from a terminal or refinery of, or the entry or sale of, a special fuel if all of the following apply:

(i) The person otherwise liable for the tax is a licensee other than a dyed special fuel user or international fuel tax agreement licensee;

(ii) For a removal from a terminal, the terminal is a licensed terminal; and

(iii) The special fuel satisfies the dyeing and marking requirements of this chapter;

(b) If it is an entry or removal from a terminal or refinery of taxable special fuel transferred to a refinery or terminal and the persons involved, including the terminal operator, are licensed; and

(c)(i) If it is a special fuel that, under contract of sale, is shipped to a point outside this state by a supplier by means of any of the following:

(A) Facilities operated by the supplier;

(B) Delivery by the supplier to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to the out-of-state point;

(C) Delivery by the supplier to a vessel clearing from port of this state for a port outside this state and actually exported from this state in the vessel.

(ii) For purposes of this subsection (2)(c):

(A) "Carrier" means a person or firm engaged in the business of transporting for compensation property owned by other persons, and includes both common and contract carriers; and

(B) "Forwarding agent" means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

(3) Notwithstanding any provision of law to the contrary, every urban passenger transportation system and carriers as defined by chapters 81.68 and 81.70 RCW shall be exempt from the provisions of this chapter requiring the payment of special fuel taxes. For the purposes of this section "urban passenger transportation system" means every transportation system, publicly or privately owned, having as its principal source of revenue the income from transporting persons for compensation by means of motor vehicles and/or trackless trolleys, each having a seating capacity for over fifteen persons over prescribed routes in such a manner that the routes of such motor vehicles and/or trackless trolleys, either alone or in conjunction with routes of other such motor vehicles and/or trackless trolleys subject to routing by the same transportation system, shall not extend for a distance exceeding twenty-five road miles beyond the corporate limits of the county in which the original starting points of such motor vehicles are located: PROVIDED, That no refunds or credits shall be granted on special fuel used by any urban transportation vehicle or vehicle operated pursuant to chapters 81.68 and 81.70 RCW on any trip where any portion of said trip is more than twenty-five road miles beyond the corporate limits of the county in which said trip originated.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of waste vegetable oil that is used by a person in the production of biodiesel for personal use.

(2) This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

(3) For the purposes of this section, the following definitions apply:

(a) "Waste vegetable oil" means used cooking oil gathered from restaurants or commercial food processors; and

(b) "Personal use" means the person does not engage in the business of selling biodiesel at wholesale or retail.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply with respect to the use of waste vegetable oil that is used by a person in the production of biodiesel for personal use. The definitions in section 2 of this act apply to this section.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2008.

Passed by the House February 19, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 238

[Engrossed Substitute Senate Bill 5010]
STATE PARKS—FOSTER HOME PASS

AN ACT Relating to creating a state park foster home pass; amending RCW 79A.05.065; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 79A.05.065 and 2007 c 441 s 1 are each amended to read as follows:

(1)(a) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall: (i) Entitle such a person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission((,)); and (ii) entitle such a person to free admission to any state park.

(b) The commission shall grant a senior citizen's pass to any person who applies for the ((same)) senior citizen's pass and who meets the following requirements:

(i) The person is at least sixty-two years of age; ((and))

(ii) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(iii) The person and his or her spouse have a combined income ((which)) that would qualify the person for a property tax exemption pursuant to RCW 84.36.381. The financial eligibility requirements of this subsection (1)(b)(iii) ((shall)) apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(c) Each senior citizen's pass granted pursuant to this section is valid ((so)) as long as the senior citizen meets the requirements of (b)(ii) of this subsection. ((Notwithstanding, any)) A senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

(d) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the criteria in (b) of this subsection. The holder shall have the pass returned upon providing proof to the satisfaction of the director ((of the parks and recreation commission)) that the holder ((does)) meets the eligibility criteria for obtaining the senior citizen's pass.

(2)(a) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71A.10.020(3) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall: (i) Entitle such a person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission((,)); and (ii) entitle such a person to free admission to any state park.

(b) A card, decal, or special license plate issued for a permanent disability under RCW 46.16.381 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(3) Any resident of Washington who is a veteran and has a service-connected disability of at least thirty percent shall be entitled to receive a

lifetime veteran's disability pass at no cost to the holder. The pass shall: (a) Entitle such a person, and members of his or her camping unit, to free use of any campsite within any state park; (b) entitle such a person to free admission to any state park; and (c) entitle such a person to an exemption from any reservation fees.

(4)(a) Any Washington state resident who provides out-of-home care to a child, as either a licensed foster-family home or a person related to the child, is entitled to a foster home pass.

(b) An applicant for a foster home pass must request a pass in the manner required by the commission. Upon receipt of a properly submitted request, the commission shall verify with the department of social and health services that the applicant qualifies under (a) of this subsection. Once issued, a foster home pass is valid for the period, which may not be less than one year, designated by the commission.

(c) When accompanied by a child receiving out-of-home care from the pass holder, a foster home pass: (i) Entitles such a person, and members of his or her camping unit, to free use of any campsite within any state park; and (ii) entitles such a person to free admission to any state park.

(d) For the purposes of this subsection (4):

(i) "Out-of-home care" means placement in a foster-family home or with a person related to the child under the authority of chapter 13.32A, 13.34, or 74.13 RCW;

(ii) "Foster-family home" has the same meaning as defined in RCW 74.15.020; and

(iii) "Person related to the child" means those persons referred to in RCW 74.15.020(2)(a) (i) through (vi).

(5) All passes issued pursuant to this section ((~~shall be~~)) are valid at all parks any time during the year. However, the pass ((~~shall~~)) is not ((~~be~~)) valid for admission to concessionaire operated facilities.

(((~~(5)~~))) (6) The commission shall negotiate payment and costs, to allow holders of a foster home pass free access and usage of park campsites, with the following nonoperated, nonstate-owned parks: Central Ferry, Chief Timothy, Crow Butte, and Lyons Ferry. The commission shall seek state general fund reimbursement on a biennial basis.

(7) The commission may deny or revoke any Washington state park pass issued under this section for cause, including but not limited to the following:

(a) Residency outside the state of Washington;

(b) Violation of laws or state park rules resulting in eviction from a state park;

(c) Intimidating, obstructing, or assaulting a park employee or park volunteer who is engaged in the performance of official duties;

(d) Fraudulent use of a pass;

(e) Providing false information or documentation in the application for a state parks pass;

(f) Refusing to display or show the pass to park employees when requested; or

(g) Failing to provide current eligibility information upon request by the agency or when eligibility ceases or changes.

(((~~(6)~~))) (8) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(((~~(7)~~))) (9) The commission may engage in a mutually agreed upon reciprocal or discounted program for all or specific pass programs with other outdoor recreation agencies.

(((~~(8)~~))) (10) The commission shall adopt ((~~such~~)) those rules as it finds appropriate for the administration of this section. Among other things, ((~~such~~)) the rules shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such a person, a minimum Washington residency requirement for applicants for a senior citizen's pass, and an application form to be completed by applicants for a senior citizen's pass.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 10, 2008.
Passed by the House March 6, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 239

[Second Substitute Senate Bill 5642]

CIGARETTE IGNITION PROPENSITY

AN ACT Relating to reduced cigarette ignition propensity; reenacting and amending RCW 43.79A.040; adding a new chapter to Title 19 RCW; creating a new section; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agent" means any person licensed by the department of revenue to purchase and affix adhesive or meter stamps on packages of cigarettes.

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, when the roll has a wrapper or cover made of paper or any material, except when the wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(3) "Manufacturer" means:

(a) Any entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer;

(b) The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(c) Any entity that becomes a successor of an entity described in (a) or (b) of this subsection.

(4) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in section 2(1)(f) of this act for all test trials used to certify cigarettes in accordance with this chapter.

(5) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent of the time.

(6) "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products.

(7) "Sale" or "sell" means any transfer of title of cigarettes for consideration, exchange, barter, gift, offer for sale, or distribution, in any manner or by any means.

(8) "Wholesale dealer" means any person who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale, and any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

NEW SECTION. **Sec. 2.** (1) Except as provided in subsection (7) of this section, cigarettes may not be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section, a written certification has been filed by the manufacturer with the state director of fire protection in accordance with section 3 of this act, and the cigarettes have been marked in accordance with section 4 of this act.

(a) Testing of cigarettes shall be conducted in accordance with the American society of testing and materials (ASTM) standard E2187-04, "standard test method for measuring the ignition strength of cigarettes."

(b) Testing shall be conducted on ten layers of filter paper.

(c) No more than twenty-five percent of the cigarettes tested in a test trial in accordance with this section may exhibit full-length burns. Forty replicate tests comprise a complete test trial for each cigarette tested.

(d) The performance standard required by (c) of this subsection may only be applied to a complete test trial.

(e) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the international organization for standardization (ISO), or other comparable accreditation standard required by the state director of fire protection.

(f) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that determines the repeatability of the testing results. The repeatability value may be no greater than 0.19.

(g) This section does not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.

(h) Testing performed or sponsored by the state director of fire protection to determine a cigarette's compliance with the performance standard required must be conducted in accordance with this section.

(2) Each cigarette listed in a certification submitted pursuant to section 3 of this act that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section must have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band must be located at least fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands fully located at least fifteen millimeters from the lighting end and ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(3) A manufacturer of a cigarette that the state director of fire protection determines cannot be tested in accordance with the test method prescribed in subsection (1)(a) of this section shall propose a test method and performance standard for the cigarette to the state director of fire protection. Upon approval of the proposed test method and a determination by the state director of fire protection that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subsection (1)(c) of this section, the manufacturer may employ that test method and performance standard to certify the cigarette pursuant to section 3 of this act. If the state director of fire protection determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter, and the state director of fire protection finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this section, then the state director of fire protection shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the state director of fire protection demonstrates a reasonable basis why the alternative test should not be accepted under this chapter. All other applicable requirements of this section apply to the manufacturer.

(4) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years, and shall make copies of these reports available to the state director of fire protection and the attorney general upon written request. Any manufacturer who fails to make copies of these reports available within sixty days of receiving a written request is subject to a civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that the manufacturer does not make the copies available.

(5) The state director of fire protection may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM standard E2187-04 and the performance standard in subsection (1)(c) of this section.

(6) Beginning in 2012, the state director of fire protection shall review the effectiveness of this section and report every three years to the legislature the state director of fire protection's findings and, if appropriate, recommendations

for legislation to improve the effectiveness of this section. The report and legislative recommendations shall be submitted no later than July 1st of each three-year reporting period.

(7) The requirements of subsection (1) of this section do not prohibit wholesale or retail dealers from selling their existing inventory of cigarettes on or after the effective date of this section if the wholesale or retailer dealer can establish that state tax stamps were affixed to the cigarettes prior to the effective date of this section, and if the wholesale or retail dealer can establish that the inventory was purchased prior to the effective date of this section in comparable quantity to the inventory purchased during the same period of the prior year.

(8) The implementation and substance of the New York fire safety standards for cigarettes, New York Executive Law section 156-c, Fire Safety Standards for Cigarettes, shall be persuasive authority in the implementation of this chapter.

NEW SECTION. **Sec. 3.** (1) Each manufacturer shall submit to the state director of fire protection a written certification attesting that:

(a) Each cigarette listed in the certification has been tested in accordance with section 2 of this act; and

(b) Each cigarette listed in the certification meets the performance standard set forth in section 2(1)(c) of this act.

(2) Each cigarette listed in the certification shall be described with the following information:

(a) Brand or trade name on the package;

(b) Style, such as light or ultra light;

(c) Length in millimeters;

(d) Circumference in millimeters;

(e) Flavor, such as menthol or chocolate, if applicable;

(f) Filter or nonfilter;

(g) Package description, such as soft pack or box;

(h) Marking approved in accordance with section 4 of this act;

(i) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

(j) The date the testing occurred.

(3) The certifications must be made available to the attorney general for purposes consistent with this chapter and the department of revenue for the purposes of ensuring compliance with this section.

(4) Each cigarette certified under this section must be recertified every three years.

(5) For each cigarette listed in a certification, a manufacturer shall pay to the state director of fire protection a fee of two hundred fifty dollars. The state director of fire protection is authorized to annually adjust this fee to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this chapter.

(6) If a manufacturer has certified a cigarette under this section, and thereafter makes any change to that cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this chapter, that cigarette may not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in section 2 of this act and maintains records of that retesting as required by

section 2 of this act. Any altered cigarette which does not meet the performance standard set forth in section 2 of this act may not be sold in this state.

NEW SECTION. **Sec. 4.** (1) Cigarettes that are certified by a manufacturer in accordance with section 3 of this act must be marked to indicate compliance with the requirements of section 2 of this act. The marking must be in eight-point type or larger and consist of:

(a) Modification of the universal product code to include a visible mark printed at or around the area of the code. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the universal product code; or

(b) Any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(c) Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this chapter.

(2) A manufacturer shall use only one marking, and shall apply this marking uniformly for all packages, including but not limited to packs, cartons, and cases, and brands marketed by that manufacturer.

(3) The state director of fire protection must be notified as to the marking that is selected.

(4) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the state director of fire protection for approval. Upon receipt of the request, the state director of fire protection shall approve or disapprove the marking offered, except that the state director of fire protection shall (a) approve the letters "FSC," which signify fire standards compliant; and (b) give preference to any packaging marking in use and approved for that cigarette in New York pursuant to New York Executive Law section 156-c, Fire Safety Standards for Cigarettes, unless the state director of fire protection demonstrates a reasonable basis why that marking should not be approved under this chapter. Proposed markings are deemed approved if the state director of fire protection fails to act within ten business days of receiving a request for approval.

(5) A manufacturer shall not modify its approved marking unless the modification has been approved by the state director of fire protection in accordance with this section.

(6) Manufacturers certifying cigarettes in accordance with section 3 of this act shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes, and shall also provide sufficient copies of an illustration of the package marking utilized by the manufacturer under this section for each retail dealer to which the wholesale dealers or agents sell cigarettes. Wholesale dealers and agents shall provide a copy of these package markings received from manufacturers to all retail dealers to which they sell cigarettes. Wholesale dealers, agents, and retail dealers shall permit the state director of fire protection, the department of revenue, the attorney general, and their employees to inspect markings of cigarette packaging marked in accordance with this section.

NEW SECTION. **Sec. 5.** (1) A manufacturer, wholesale dealer, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other

than through retail sale, in violation of section 2 of this act, for a first offense is liable to a civil penalty not to exceed ten thousand dollars per each sale of the cigarettes, and for a subsequent offense is liable to a civil penalty not to exceed twenty-five thousand dollars per each sale of the cigarettes. However, in no case may the penalty against such a person or entity exceed one hundred thousand dollars during any thirty-day period.

(2)(a) A retail dealer who knowingly sells cigarettes in violation of section 2 of this act is:

(i) For a first offense liable to a civil penalty not to exceed five hundred dollars, and for a subsequent offense is liable to a civil penalty not to exceed two thousand dollars, per each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale does not exceed one thousand cigarettes; or

(ii) For a first offense liable to a civil penalty not to exceed one thousand dollars, and for a subsequent offense is liable to a civil penalty not to exceed five thousand dollars, per each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale exceeds one thousand cigarettes.

(b) A penalty under this subsection may not exceed twenty-five thousand dollars during a thirty-day period.

(3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification under section 3 of this act is, for a first offense, liable to a civil penalty of at least seventy-five thousand dollars, and for a subsequent offense a civil penalty not to exceed two hundred fifty thousand dollars for each false certification.

(4) Any person violating any other provision in this chapter is liable to a civil penalty for a first offense not to exceed one thousand dollars, and for a subsequent offense is liable to a civil penalty not to exceed five thousand dollars, for each violation.

(5) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by section 2 of this act are subject to forfeiture under RCW 82.24.130. However, prior to the destruction of any cigarette seized under this subsection, the true holder of the trademark rights in the cigarette brand must be permitted to inspect the cigarette.

(6) In addition to any other remedy provided by law, the state director of fire protection or attorney general may initiate an appropriate civil action in superior court for a violation of this chapter, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorneys' fees. Each violation of this chapter or of rules adopted under this chapter constitutes a separate civil violation for which the state director of fire protection or attorney general may obtain relief.

NEW SECTION. **Sec. 6.** (1) The state director of fire protection may adopt rules necessary to implement this chapter.

(2) The department of revenue in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, as authorized under chapter 82.24 RCW, may inspect cigarettes to determine if the cigarettes are marked as required by section 4 of this act. If the cigarettes are not marked as required, the department of revenue shall notify the state director of fire protection.

NEW SECTION. **Sec. 7.** To enforce this chapter, the attorney general and the state director of fire protection are authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale, is required to give the attorney general and the state director of fire protection the means, facilities, and opportunity for the examinations authorized by this section.

NEW SECTION. **Sec. 8.** The reduced cigarette ignition propensity account is created in the custody of the state treasurer. All receipts from the payment of certification fees under section 3 of this act and from the imposition of civil penalties under section 5 of this act must be deposited into the account. Expenditures from the account may be used only for fire safety, enforcement, and prevention programs. Only the state director of fire protection or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 9. RCW 43.79A.040 and 2007 c 523 s 5, 2007 c 357 s 21, and 2007 c 214 s 14 are each reenacted and amended to read as follows:

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

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

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

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

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the fruit and vegetable

inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

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

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

NEW SECTION. **Sec. 10.** This chapter does not prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of section 2 of this act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons located in this state.

NEW SECTION. **Sec. 11.** If a federal reduced cigarette ignition propensity standard that preempts this act is adopted and becomes effective, the state director of fire protection shall prepare and submit to the legislature the necessary legislation to repeal this chapter.

NEW SECTION. **Sec. 12.** The local governmental units of this state may neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of this chapter or with any policy of this state expressed by this chapter, whether that policy is expressed by inclusion of a provision in this chapter or by exclusion of that subject from this chapter.

NEW SECTION. **Sec. 13.** Sections 1 through 8 and 10 through 12 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. **Sec. 14.** This act takes effect August 1, 2009.

NEW SECTION. **Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 8, 2008.
Passed by the House March 6, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 240

[Substitute Senate Bill 5651]

COMMUNITY CREDIT—ASSESSMENT CRITERIA

AN ACT Relating to investigating and assessing performance in meeting community credit needs; and amending RCW 30.60.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 30.60.010 and 1994 c 92 s 157 are each amended to read as follows:

(1) In conducting an examination of a bank chartered under Title 30 RCW, the director shall investigate and assess the record of performance of the bank in meeting the credit needs of the bank's entire community, including low and moderate-income neighborhoods. The director shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the bank is required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the director in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the director shall consider, independent of any federal determination, the following factors in assessing the bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community and microenterprise development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(l) Other factors that, in the judgment of the director, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The director shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

(a) Excellent performance:	1
(b) Good performance:	2
(c) Satisfactory performance:	3
(d) Inadequate performance:	4
(e) Poor performance:	5

Passed by the Senate February 14, 2008.
Passed by the House March 4, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 241

[Senate Bill 6216]

CIGARETTE TAX—CONTRACT—SHOALWATER BAY TRIBE

AN ACT Relating to authorizing the governor to enter into a cigarette tax contract with the Shoalwater Bay Tribe; and amending RCW 43.06.460.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.06.460 and 2007 c 320 s 1 are each amended to read as follows:

(1) The governor is authorized to enter into cigarette tax contracts with the Squaxin Island Tribe, the Nisqually Tribe, Tulalip Tribes, the Muckleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Yakama Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, the Upper Skagit Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Samish Indian Nation, the Quileute Tribe, the Kalispel Tribe, the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam

Tribe, the Makah Tribe, the Hoh Tribe, ((~~and~~)) the Spokane Tribe, and the Shoalwater Bay Tribe. Each contract adopted under this section shall provide that the tribal cigarette tax rate be one hundred percent of the state cigarette and state and local sales and use taxes within three years of enacting the tribal tax and shall be set no lower than eighty percent of the state cigarette and state and local sales and use taxes during the three-year phase-in period. The three-year phase-in period shall be shortened by three months each quarter the number of cartons of nontribal manufactured cigarettes is at least ten percent or more than the quarterly average number of cartons of nontribal manufactured cigarettes from the six-month period preceding the imposition of the tribal tax under the contract. Sales at a retailer operation not in existence as of the date a tribal tax under this section is imposed are subject to the full rate of the tribal tax under the contract. The tribal cigarette tax is in lieu of the state cigarette and state and local sales and use taxes, as provided in RCW 43.06.455(3).

(2) A cigarette tax contract under this section is subject to RCW 43.06.455.

Passed by the Senate February 19, 2008.
Passed by the House March 5, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 242

[Second Substitute Senate Bill 6227]

MARINE RESOURCE COMMITTEES—SUPPORT

AN ACT Relating to strengthening Washington's outer coast marine resources committees; amending RCW 36.125.020; adding a new section to chapter 36.125 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that Washington's coastal and ocean resources provide vital economic, recreation, transportation, and cultural benefits to the state. The legislature seeks to continue recent state and local efforts to preserve and enhance the state's coastal and ocean resources, such as the work of the Washington ocean policy work group and the state's existing marine resources committees.

The legislature finds that outer coast marine resources committees, authorized by the legislature in 2007, provide a mechanism for communities to discuss and develop solutions for the issues facing coastal resources and communities. However, additional state investments are necessary to allow outer coast marine resources committees to fulfill their full potential. Therefore, the legislature intends by this act to provide additional support and resources for outer coast marine resources committees in order to benefit the coastal and ocean resources of Washington.

Sec. 2. RCW 36.125.020 and 2007 c 344 s 3 are each amended to read as follows:

(1) A marine resources committee, as described in RCW 36.125.010, may be created by the legislative authority of any county bordering the marine waters of the outer coast or Puget Sound, in cooperation with all appropriate cities and special districts within their boundaries. Adjacent county legislative authorities

shall coordinate their efforts whenever there is a mutual interest in creating a marine resources committee.

(2) A county may delegate the management and oversight of a marine resources committee created by the county under RCW 36.125.010 to a city, or cities, within its jurisdiction, if the city or cities are located on the marine waters of the outer coast or southern Puget Sound and are willing to accept the delegation.

(3)(a) Participating county legislative authorities must select members of the marine resources committee, ensuring balanced representation from: Local government; local residents; scientific experts; affected economic interests; affected recreational interests; and environmental and conservation interests. Additionally, participating county legislative authorities must invite tribal representatives to participate in the marine resources committee.

(b) In lieu of creating a new entity, participating county legislative authorities may designate a lead entity created under RCW 77.85.050 to also serve as a marine resources committee. County legislative authorities may only make this designation where the lead entity consents in writing to also serve as a marine resources committee.

(c) An initiating county may delegate its appointment authority to a city or cities that have received from the county the delegated responsibilities of managing and overseeing the marine resources committee.

(4) County residents may petition the county legislative authority to create a marine resources committee. Upon receipt of a petition, the county legislative authority must respond in writing within sixty days as to whether they will authorize the creation of a marine resources committee as well as the reasons for their decision.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.125 RCW to read as follows:

(1) The outer coast marine resources committee program is created to provide support for the development, administration, and coordination of outer coast marine resources committees and their projects.

(2) The director of fish and wildlife is the administrator of the outer coast marine resources committee program. As the administrator of the program, the director of fish and wildlife shall:

(a) Provide each outer coast marine resources committee with a coordinator to support the administration and work of the committee; and

(b) Distribute grants to outer coast marine resources committees for projects that benefit Washington's coastal marine resources. The director of fish and wildlife shall develop procedures and criteria for allocating funds for projects, which may include annual allocation of funding to each committee.

(3) Each outer coast marine resources committee shall prepare and deliver an annual report to the director of fish and wildlife by October 31st of each year. The report must include, but is not limited to, a summary of actions taken that year and prioritized recommendations for future action. The director of fish and wildlife shall compile the individual outer coast marine resources committee reports into a consolidated report, and provide the consolidated report to the governor and appropriate committees of the legislature by December 31st of each year.

Passed by the Senate February 18, 2008.
Passed by the House March 12, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 243

[Substitute Senate Bill 6231]

MARINE PROTECTED AREAS—COORDINATION

AN ACT Relating to improving the coordination of marine protected areas in Washington; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that Washington contains an array of marine protected areas managed by state, federal, tribal, and local governments. The many entities managing marine protected areas have developed distinct goals for protected areas, criteria for protected area establishment, management practices, terminology, and monitoring practices for these areas. The legislature supports all efforts to protect, conserve, and sustainably manage marine life and resources. However, the legislature finds that additional coordination between marine protected areas managers will improve the collective resource protection capacity of marine protected areas in Washington. The legislature further finds that additional coordination between state agencies and local governments and citizens will increase local involvement in, and the success of, marine protected areas.

NEW SECTION. **Sec. 2.** (1) The marine protected areas work group is established. The work group shall:

(a) Examine the current inventory and management of Washington's marine protected areas;

(b) Develop recommendations to improve coordination and consistency among marine protected areas and marine protected areas managers regarding goals for protected areas, criteria for protected area establishment, management practices, terminology, and monitoring practices;

(c) Develop recommendations to improve the integration of science into marine protected area establishment and management decisions;

(d) Develop recommendations to further integrate local governments and nongovernmental organizations into the establishment and management of marine protected areas; and

(e) Provide any other recommendations to improve the effectiveness of marine protected areas in Washington.

(2) The director of fish and wildlife, or the director's designee, shall chair the work group. The chair shall invite representatives of state agencies and local governments with jurisdiction over or that manage marine protected areas in Washington to participate in the work group. These entities must include, but are not limited to, the department of fish and wildlife, the department of natural resources, the state parks and recreation commission, and appropriate marine resources committees. The chair shall invite representatives of appropriate federal agencies and tribal governments to participate in the work group. The chair may also invite other appropriate state agencies to participate in the work

group. The chair is responsible for convening the work group and for directing the work of the work group. State agencies invited to participate in the work group must participate and work cooperatively with the department of fish and wildlife to carry out this act.

(3) For the purposes of this section, "marine protected area" means a geographic marine or estuarine area designated by a state, federal, tribal, or local government in order to provide long-term protection for part or all of the resources within that area.

(4) By December 1, 2009, the work group must provide the appropriate committees of the legislature with: (a) An inventory of marine protected areas in Washington; and (b) a summary of the issues and recommendations identified under subsection (1)(b) through (e) of this section.

NEW SECTION. **Sec. 3.** (1) If chapter . . . . (Substitute Senate Bill No. 6307), Laws of 2008 or a subsequent version thereof, becomes law, the marine protected areas work group established under section 2 of this act must focus its efforts on marine protected areas in coastal waters as defined in RCW 43.143.020.

(2) If chapter . . . . (Substitute Senate Bill No. 6307), Laws of 2008 or a subsequent version thereof, does not become law, the marine protected areas work group established under section 2 of this act must focus its efforts on all marine waters of the state. The marine protected areas work group and the Puget Sound partnership must work jointly to carry out section 2 of this act regarding marine protected areas in Puget Sound as defined in RCW 90.71.010.

Passed by the Senate February 19, 2008.
Passed by the House March 13, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 244

[Senate Bill 6289]

CATCH RECORD CARDS—DUNGENESS CRAB

AN ACT Relating to Puget Sound Dungeness crab catch record cards; amending RCW 77.32.070 and 77.15.280; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 77.32.070 and 2005 c 418 s 1 are each amended to read as follows:

(1) Applicants for a license, permit, tag, or stamp shall furnish the information required by the director. However, the director may not require the purchaser of a razor clam license under RCW 77.32.520 to provide any personal information except for proof of residency. The commission may adopt rules requiring licensees or permittees to keep records and make reports concerning the taking of or effort to harvest fish, shellfish, and wildlife. The reporting requirement may be waived where, for any reason, the department is not able to receive the report. The department must provide reasonable options for a licensee to submit information to a live operator prior to the reporting deadline.

(2) The commission may, by rule, set an administrative penalty for failure to comply with rules requiring the reporting of taking or effort to harvest wildlife.

The commission may also adopt rules requiring hunters who have not reported for the previous license year to complete a report and pay the assessed administrative penalty before a new hunting license is issued.

(a) The total administrative penalty per hunter set by the commission must not exceed ten dollars.

(b) By December 31st of each year, the department shall report the rate of hunter compliance with the harvest reporting requirement, the administrative penalty imposed for failing to report, and the amount of administrative penalties collected during that year to the appropriate fiscal and policy committees of the senate and house of representatives.

(3) The commission may, by rule, set an administrative penalty for failure to comply with rules requiring the reporting of data from catch record cards officially endorsed for Puget Sound Dungeness crab. The commission may also adopt rules requiring fishers who possessed a catch record card officially endorsed for Puget Sound Dungeness crab and who have not reported for the previous license year to complete a report and pay the assessed administrative penalty before a new catch record card officially endorsed for Puget Sound Dungeness crab is issued.

(a) The total administrative penalty per fisher set by the commission must not exceed ten dollars.

(b) By December 31st of each year, the department shall report the rate of fisher compliance with the Puget Sound Dungeness crab catch record card reporting requirement, the administrative penalty imposed for failing to report, and the amount of administrative penalties collected during that year to the appropriate fiscal and policy committees of the senate and house of representatives.

Sec. 2. RCW 77.15.280 and 2005 c 418 s 2 are each amended to read as follows:

(1) A person is guilty of violating rules requiring reporting of fish or wildlife harvest if the person:

(a) Fails to make a harvest log report of a commercial fish or shellfish catch in violation of any rule of the commission or the director;

(b) Fails to maintain a trapper's report or taxidermist ledger in violation of any rule of the commission or the director;

(c) Fails to submit any portion of a big game animal for a required inspection required by rule of the commission or the director; or

(d) Fails to return a catch record card to the department as required by rule of the commission or director, except for catch record cards officially endorsed for Puget Sound Dungeness crab.

(2) Violating rules requiring reporting of fish or wildlife harvest is a misdemeanor.

Passed by the Senate March 8, 2008.

Passed by the House March 5, 2008.

Approved by the Governor March 28, 2008.

Filed in Office of Secretary of State March 28, 2008.

CHAPTER 245

[Senate Bill 6421]

MEDICAL COVERAGE—SMOKING CESSATION PROGRAMS

AN ACT Relating to providing medical coverage for smoking cessation programs; adding a new section to chapter 74.09 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 74.09 RCW to read as follows:

The department shall provide coverage under this chapter for smoking cessation counseling services, as well as prescription and nonprescription agents when used to promote smoking cessation, so long as such agents otherwise meet the definition of "covered outpatient drug" in 42 U.S.C. Sec. 1396r-8(k). However, the department may initiate an individualized inquiry and determine and implement by rule appropriate coverage limitations as may be required to encourage the use of effective, evidence-based services and prescription and nonprescription agents. The department shall track per-capita expenditures for a cohort of clients that receive smoking cessation benefits, and submit a cost-benefit analysis to the legislature on or before January 1, 2012.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 10, 2008.
Passed by the House March 5, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 246

[Substitute Senate Bill 6439]

RADIOLOGIST ASSISTANTS

AN ACT Relating to radiologist assistants; amending RCW 18.84.010, 18.84.020, 18.84.030, 18.84.040, and 18.84.080; and adding a new section to chapter 18.84 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.84.010 and 1991 c 222 s 1 are each amended to read as follows:

It is the intent and purpose of this chapter to protect the public by the certification and registration of practitioners of radiological technology. By promoting high standards of professional performance, by requiring professional accountability, and by credentialing those persons who seek to provide radiological technology under the title of ((~~radiological~~)) radiologic technologists, and by regulating all persons utilizing ionizing radiation on human beings this chapter identifies those practitioners who have achieved a particular level of competency. Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person certified under this chapter.

The legislature finds and declares that this chapter conforms to the guidelines, terms, and definitions for the credentialing of health or health-related professions specified under chapter 18.120 RCW.

Sec. 2. RCW 18.84.020 and 2000 c 93 s 42 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) "Licensed practitioner" means any licensed health care practitioner performing services within the person's authorized scope of practice.

(4) "Radiologic technologist" means an individual certified under this chapter, other than a licensed practitioner, who practices radiologic technology as a:

(a) Diagnostic radiologic technologist, who is a person who actually handles X-ray equipment in the process of applying radiation on a human being for diagnostic purposes at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW; ((~~or~~))

(b) Therapeutic radiologic technologist, who is a person who uses radiation-generating equipment for therapeutic purposes on human subjects at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW; ((~~or~~))

(c) Nuclear medicine technologist, who is a person who prepares radiopharmaceuticals and administers them to human beings for diagnostic and therapeutic purposes and who performs in vivo and in vitro detection and measurement of radioactivity for medical purposes at the direction of a licensed practitioner; or

(d) Radiologist assistant, who is an advanced-level certified diagnostic radiologic technologist who assists radiologists by performing advanced diagnostic imaging procedures as determined by rule under levels of supervision defined by the secretary, this includes but is not limited to enteral and parenteral procedures when performed under the direction of the supervising radiologist, and that these procedures may include injecting diagnostic agents to sites other than intravenous, performing diagnostic aspirations and localizations, and assisting radiologists with other invasive procedures.

(5) "Approved school of radiologic technology" means a school of radiologic technology or radiologist assistant program approved by the ((~~council on medical education of the American medical association~~)) secretary or a school found to maintain the equivalent of such a course of study as determined by the department. Such school may be operated by a medical or educational institution, and for the purpose of providing the requisite clinical experience, shall be affiliated with one or more general hospitals.

(6) "Approved radiologist assistant program" means a school approved by the secretary. The secretary may recognize other organizations that establish

standards for radiologist assistant programs and designate schools that meet the organization's standards as approved.

(7) "Radiologic technology" means the use of ionizing radiation upon a human being for diagnostic or therapeutic purposes.

(((~~(7)~~))) (8) "Radiologist" means a physician certified by the American board of radiology or the American osteopathic board of radiology.

(((~~(8)~~))) (9) "Registered X-ray technician" means a person who is registered with the department, and who applies ionizing radiation at the direction of a licensed practitioner and who does not perform parenteral procedures.

Sec. 3. RCW 18.84.030 and 1991 c 222 s 3 are each amended to read as follows:

No person may practice radiologic technology without being registered or certified under this chapter, unless that person is a licensed practitioner as defined in RCW 18.84.020(3). A person represents himself or herself to the public as a certified ((~~radiological~~)) radiologic technologist when that person adopts or uses a title or description of services that incorporates one or more of the following items or designations:

(1) Certified radiologic technologist or CRT, for persons so certified under this chapter;

(2) Certified radiologic therapy technologist, CRTT, or CRT, for persons certified in the therapeutic field;

(3) Certified radiologic diagnostic technologist, CRDT, or CRT, for persons certified in the diagnostic field; ((~~or~~))

(4) Certified nuclear medicine technologist, CNMT, or CRT, for persons certified as nuclear medicine technologists; or

(5) Certified radiologist assistant or CRA for persons certified as radiologist assistants.

Sec. 4. RCW 18.84.040 and 1994 sp.s. c 9 s 506 are each amended to read as follows:

(1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all registration, certification, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Evaluate and designate those schools from which graduation will be accepted as proof of an applicant's eligibility to receive a certificate;

(e) Determine whether alternative methods of training are equivalent to formal education, and to establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to receive a certificate;

(f) Issue a certificate to any applicant who has met the education, training, examination, and conduct requirements for certification; and

(g) Issue a registration to an applicant who meets the requirement for a registration.

(2) The secretary may hire clerical, administrative, and investigative staff as needed to implement this chapter.

(3) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of registrations and certifications, unregistered and uncertified practice, and the discipline of registrants and certificants under this chapter. The secretary is the disciplining authority under this chapter.

(4) The secretary may appoint ad hoc members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

Sec. 5. RCW 18.84.080 and 1991 c 3 s 209 are each amended to read as follows:

(1) The secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction, that the following requirements have been met to practice as:

(a) A diagnostic radiologic technologist, therapeutic radiologic technologist, or nuclear medicine technologist:

(i) Graduation from an approved school or successful completion of alternate training that meets the criteria established by the secretary; ((~~and~~

~~(b)~~)) (ii) Satisfactory completion of a radiologic technologist examination approved by the secretary; and

(iii) Good moral character; or

(b) A radiologist assistant:

(i) Satisfactory completion of an approved radiologist assistant program;

(ii) Satisfactory completion of a radiologist assistant examination approved by the secretary; and

(iii) Good moral character.

(2) Applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

(3) The secretary shall establish by rule what constitutes adequate proof of meeting the requirements for certification and for designation of certification in a particular field of radiologic technology.

NEW SECTION. **Sec. 6.** A new section is added to chapter 18.84 RCW to read as follows:

It is unprofessional conduct under chapter 18.130 RCW for any person registered or certified under this chapter to interpret images, make diagnoses, prescribe medications or therapies, or perform other procedures that may be prohibited by rule.

Passed by the Senate March 10, 2008.
Passed by the House March 4, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 247

[Engrossed Substitute Senate Bill 6570]

STATE-OWNED HOUSING—PRIVATE BUSINESSES

AN ACT Relating to private businesses in state-owned housing provided under Title 77 RCW or chapter 79A.05 RCW; and adding a new section to chapter 42.52 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 42.52 RCW to read as follows:

(1) The department of fish and wildlife and the parks and recreation commission may approve private business activity in state-owned housing provided under Title 77 RCW or chapter 79A.05 RCW.

(2) Prior to granting approval of private business activity in state-owned housing, the department of fish and wildlife and the parks and recreation commission must adopt a private business activity policy that is approved by the executive ethics board.

(a) The private business activity policy may only authorize private business activity by the resident state employee while the employee is off duty or the employee's spouse who is approved for residency in the agency housing or the employee's children.

(b) The private business activity policy may not allow private business activity that negatively impacts the agency's operations. For the purposes of this section, "negatively impacts" includes but is not limited to: (i) Negative impacts to visitors' services or access; (ii) in-person visits to state-owned housing for the purpose of transacting business that negatively impacts agency operations; (iii) the incurrence of additional expenses by the state; (iv) the use of signage in the state-owned residence; (v) advertising on state-owned property; or (vi) an appearance of state endorsement of the private business activity.

(3) The private business activity must comply with all other local, state, and federal laws.

(4) All approvals of a private business activity in state-owned housing must be by the agency director or designee in writing.

(5) A state employee is presumed not to be in violation of RCW 42.52.070 or 42.52.160 if the employee or the employee's spouse or child complies with this section.

Passed by the Senate March 10, 2008.
Passed by the House March 7, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 248

[Substitute Senate Bill 6572]

MICROBREWERIES—OFF-PREMISES WAREHOUSES

AN ACT Relating to off-premises microbrewery warehouses; reenacting and amending RCW 66.24.244 and 66.24.244; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 66.24.244 and 2007 c 370 s 4 and 2007 c 222 s 1 are each reenacted and amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Any

microbrewery licensed under this section may act as a distributor for beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers, except that a microbrewery operating as a distributor may maintain a warehouse off the premises of the microbrewery for the distribution of beer provided that (a) the warehouse has been approved by the board under RCW 66.24.010 and (b) the number of warehouses off the premises of the microbrewery does not exceed one. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) The board may issue a license allowing a microbrewery to operate a spirits, beer, and wine restaurant under RCW 66.24.420.

(4) The board may issue a license to a microbrewery allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. The microbrewer must determine, at the time the license is issued, whether the licensed premises will be operated as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.

(5) A microbrewery that holds a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320 and 66.24.420.

(6) If the microbrewery licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant, operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant, at a location separate from the licensed brewery premises.

(7)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (7) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (7) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (7)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection (7):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 2. RCW 66.24.244 and 2007 c 370 s 5 and 2007 c 222 s 2 are each reenacted and amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may

authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers, except that a microbrewery operating as a distributor may maintain a warehouse off the premises of the microbrewery for the distribution of beer provided that (a) the warehouse has been approved by the board under RCW 66.24.010 and (b) the number of warehouses off the premises of the microbrewery does not exceed one. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) The board may issue a license allowing a microbrewery to operate a spirits, beer, and wine restaurant under RCW 66.24.420.

(4) The board may issue a license to a microbrewery allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. The microbrewer must determine, at the time the license is issued, whether the licensed premises will be operated as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.

(5) A microbrewery that holds a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320 and 66.24.420.

(6) If the microbrewery licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant, operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant, at a location separate from the licensed brewery premises.

(7)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (7) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any

microbrewery with an endorsement approved under this subsection (7) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (7)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection (7):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

NEW SECTION. **Sec. 3.** Section 1 of this act expires June 30, 2008.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect June 30, 2008.

Passed by the Senate February 15, 2008.

Passed by the House March 5, 2008.

Approved by the Governor March 28, 2008.

Filed in Office of Secretary of State March 28, 2008.

CHAPTER 249

[Substitute Senate Bill 6596]

SEX OFFENDER POLICY BOARD

AN ACT Relating to the creation of a sex offender policy board; adding new sections to chapter 9.94A RCW; adding new sections to chapter 43.131 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** FINDINGS AND DECLARATIONS. The legislature finds that in recent years professionals have recognized the value of developing a more coordinated and integrated response to sex offender management. The legislature further finds that a comprehensive response to issues that arise, such as integrating federal and state laws, or assessing whether system flaws contributed to an offense, can enhance the state's interest in protecting the community with an emphasis on public safety. While the legislature recognizes that sex offenses cannot be eliminated entirely, the interests of the public will be best served if Washington state experts and practitioners from across the continuum of the sex offender response system coordinate sex offender management planning and create a system to assess the performance of all components of the sex offender response systems statewide. The legislature intends to foster such coordination by creating a sex offender policy board.

NEW SECTION. **Sec. 2.** ESTABLISHMENT OF BOARD. (1) The sentencing guidelines commission shall establish, staff, and maintain a sex offender policy board.

(2) Although the board is established by the commission, it shall maintain an independent existence from the commission.

NEW SECTION. **Sec. 3.** BOARD MEMBERSHIP. (1) The sex offender policy board shall consist of thirteen voting members. Unless the member is specifically named in this section, the following organizations shall designate a person to sit on the board.

(a) The Washington association of sheriffs and police chiefs;

(b) The Washington association of prosecuting attorneys;

(c) The Washington association of criminal defense lawyers;

(d) The chair of the indeterminate sentence review board or his or her designee;

(e) The Washington association for the treatment of sex abusers;

(f) The secretary of the department of corrections or his or her designee;

(g) The Washington state superior court judge's association;

(h) The assistant secretary of the juvenile rehabilitation administration or his or her designee;

(i) The office of crime victims advocacy in the department of community, trade, and economic development;

(j) The Washington state association of counties;

(k) The association of Washington cities;

(l) The Washington association of sexual assault programs; and

(m) The director of the special commitment center or his or her designee.

(2) The person so named in subsection (1) of this section has the authority to make decisions on behalf of the organization he or she represents.

(3) The nonvoting membership shall consist of the following:

(a) Two members of the sentencing guidelines commission chosen by the chair of the commission; and

(b) A representative of the criminal justice division in the attorney general's office.

(4) The board shall choose its chair by majority vote from among its voting membership. The chair's term shall be two years.

(5) The chair of the sentencing guidelines commission shall convene the first meeting.

(6) The Washington institute for public policy shall act as an advisor to the board.

NEW SECTION. **Sec. 4.** LENGTH OF MEMBERSHIP TERMS. (1) The following members of the sex offender policy board shall be appointed for a term of three years and shall serve until their successor is selected by the agency they represent:

(a) The member selected by the Washington association of sheriffs and police chiefs;

(b) The member selected by the Washington association of prosecuting attorneys;

(c) The member selected by the Washington association of criminal defense lawyers;

(d) The member selected by the Washington association for the treatment of sex abusers;

(e) The member selected by the Washington state superior court judge's association;

(f) The member selected by the Washington state association of counties;

(g) The member selected by the association of Washington cities; and

(h) The member selected by the Washington association of sexual assault providers.

(2) Any vacancy before the expiration of a term shall be filled by the appointing agency for the unexpired portion of the term in which the vacancy occurs. The terms of the initial members listed in subsection (1) of this section shall be staggered so that their terms expire after one, two, and three years.

NEW SECTION. **Sec. 5.** BOARD AUTHORITY. (1) The sex offender policy board may create subcommittees as needed.

(2) Within available funding, the board may contract with outside entities which have specific expertise necessary to assist the board in performing its duties.

(3) The board shall develop bylaws to govern its operation, using the bylaws created by the sentencing guidelines commission as a guide.

NEW SECTION. **Sec. 6.** DUTIES OF THE BOARD. The sex offender policy board's duties are as follows:

(1)(a) To stay apprised of (i) research and best practices related to risk assessment, treatment, and supervision of sex offenders; (ii) community education regarding sex offenses and offenders; (iii) prevention of sex offenses; and (iv) sex offender management, in general;

(b) To conduct case reviews on sex offenses as needed to understand performance of sex offender prevention and response systems or which are

requested by the governor, the legislature, or local criminal justice agencies. The reviews shall be conducted in a manner that protects the right to a fair trial;

(c) To develop and report on benchmarks that measure performance across the state's sex offender response system;

(d) To assess and communicate best practices or upcoming trends in other jurisdictions to determine their applicability and viability in Washington state;

(e) To provide a forum for discussion of issues that requires interagency communication, coordination, and collaboration, including:

(i) Community education and the distribution of information about all parts of the sex offender management system to interested parties;

(ii) Existing community-based prevention programs; and

(iii) Sex offender registration and monitoring in the community.

(2) The board shall develop an initial work plan detailing the method for achieving its duties and submit it to the governor and the legislature no later than December 1, 2008. The board shall annually update the work plan and include reasonable performance measures to indicate whether its duties are being met.

(3) The board shall report annually starting December 1, 2008, to the governor and the legislature with findings on (a) current research and best practices related to risk assessment, treatment, and supervision of sex offenders; (b) community education regarding sex offenses and offenders; (c) prevention of sex offenses; (d) sex offender management; (e) the performance of sex offender prevention and response systems; and (f) any other activities performed by the board in the prior twelve months in the furtherance of the purposes of this act.

NEW SECTION. **Sec. 7.** REIMBURSEMENT. The members of the sex offender policy board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 8.** MEMBER REPLACEMENT. Any member of the sex offender policy board who misses three consecutive meetings shall have that fact called to that member's attention by the chair of the board with the request that the member reconsider his or her ability to continue as a member. After discussion, if the chair believes the member is not able to continue as a board member, the chair shall request that the appointing agency replace the member for the remainder of the unexpired term.

NEW SECTION. **Sec. 9.** A new section is added to chapter 43.131 RCW to read as follows:

SUNSET TERMINATION. The sex offender policy board and its powers and duties shall be terminated on June 30, 2013, as provided in section 10 of this act.

NEW SECTION. **Sec. 10.** A new section is added to chapter 43.131 RCW to read as follows:

SUNSET REPEALER. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2014:

(1) Section 1 of this act;

(2) Section 2 of this act;

(3) Section 3 of this act;

(4) Section 4 of this act;

(5) Section 5 of this act;

(6) Section 6 of this act;

(7) Section 7 of this act; and
(8) Section 8 of this act.

NEW SECTION. **Sec. 11.** NULL AND VOID CLAUSE. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 12.** CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 13.** Sections 1 through 8 of this act are each added to chapter 9.94A RCW.

Passed by the Senate March 10, 2008.
Passed by the House March 6, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 250

[Substitute Senate Bill 6607]

SHELLFISH PROTECTION DISTRICTS—WASTEWATER DISCHARGE FEES

AN ACT Relating to shellfish protection district wastewater discharge fees, rates, and charges; and amending RCW 90.72.030, 90.72.045, and 90.72.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 90.72.030 and 2007 c 150 s 1 are each amended to read as follows:

The legislative authority of each county having shellfish tidelands within its boundaries is authorized to establish a shellfish protection district to include areas in which nonpoint pollution threatens the water quality upon which the continuation or restoration of shellfish farming or harvesting is dependent. The legislative authority shall constitute the governing body of the district and shall adopt a shellfish protection program with elements and activities to be effective within the district. The legislative authority may appoint a local advisory council to advise the legislative authority in preparation and implementation of shellfish protection programs. This program shall include any elements deemed appropriate to deal with the nonpoint pollution threatening water quality over shellfish tidelands, including, but not limited to, requiring the elimination or decrease of contaminants in storm water runoff, establishing monitoring, inspection, and repair elements to ensure that on-site sewage systems are adequately maintained and working properly, assuring that animal grazing and manure management practices are consistent with best management practices, and establishing educational and public involvement programs to inform citizens on the causes of the threatening nonpoint pollution and what they can do to decrease the amount of such pollution. The county legislative authority shall consult with the department of health, the department of ecology, the department of agriculture, or the conservation commission as appropriate as to the elements of the program. An element may be omitted where another program is effectively addressing those sources of nonpoint water pollution. Within the limits of RCW 90.72.040 and 90.72.070, the county legislative authority shall

have full jurisdiction and authority to manage, regulate, and control its programs and to fix, alter, regulate, and control the fees for services provided and charges or rates as provided under those programs. Programs established under this chapter, may, but are not required to, be part of a system of sewerage as defined in RCW 36.94.010.

Sec. 2. RCW 90.72.045 and 2007 c 150 s 2 are each amended to read as follows:

The county legislative authority shall create a shellfish protection district and establish a shellfish protection program developed under RCW 90.72.030 or an equivalent program to address the causes or suspected causes of pollution within one hundred eighty days after the department of health, because of water quality degradation due to ongoing nonpoint sources of pollution has closed or downgraded the classification of a recreational or commercial shellfish growing area within the boundaries of the county. The county legislative authority shall initiate implementation of the shellfish protection program within sixty days after it is established.

A copy of the program must be provided to the departments of health, ecology, and agriculture. An agency that has regulatory authority for any of the sources of nonpoint pollution covered by the program shall cooperate with the county in its implementation. The county legislative authority shall submit a written report to the department of health annually that describes the status and progress of the program. If rates or fees are collected under RCW 90.72.070 for implementation of the shellfish protection district program, the annual report shall provide sufficient detail of the expenditure of the revenue collected to ensure compliance with RCW 90.72.070.

Sec. 3. RCW 90.72.070 and 1992 c 100 s 6 are each amended to read as follows:

The county legislative authority establishing a shellfish protection district may finance the protection program through (1) county tax revenues, (2) reasonable inspection fees and similar fees for services provided, (3) reasonable charges or rates specified in its protection program, or (4) federal, state, or private grants. ((~~Confined animal feeding operations subject to the national pollutant discharge elimination system and implementing regulations shall not be subject to fees, rates, or charges by a shellfish protection district.~~)) A dairy animal feeding operation with a certified dairy nutrient management plan as required in chapter 90.64 RCW and any other commercial agricultural operation on agricultural lands as defined in RCW 36.70A.030 shall be subject to fees, rates, or charges by a shellfish protection district of no more than five hundred dollars in a calendar year. Facilities permitted and assessed fees for wastewater discharge under the national pollutant discharge elimination system shall not be subject to fees, rates, or charges for wastewater discharge by a shellfish protection district. Lands classified as forest land under chapter 84.33 RCW and timber land under chapter 84.34 RCW shall not be subject to fees, rates, or charges by a shellfish protection district. Counties may collect charges or rates in the manner determined by the county legislative authority.

Passed by the Senate March 10, 2008.

Passed by the House March 5, 2008.

Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 251

[Substitute Senate Bill 6807]

LONG-TERM CARE—MEDICAID RESIDENTS—DISCHARGE

AN ACT Relating to discharge of long-term care residents; amending RCW 70.129.110; adding a new section to chapter 18.20 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.20 RCW to read as follows:

(1) If a boarding home voluntarily withdraws from participation in a state medicaid program for residential care and services under chapter 74.39A RCW, but continues to provide services of the type provided by boarding homes, the facility's voluntary withdrawal from participation is not an acceptable basis for the transfer or discharge of residents of the facility (a) who were receiving medicaid on the day before the effective date of the withdrawal; or (b) who have been paying the facility privately for at least two years and who become eligible for medicaid within one hundred eighty days of the date of withdrawal.

(2) A boarding home that has withdrawn from the state medicaid program for residential care and services under chapter 74.39A RCW must provide the following oral and written notices to prospective residents. The written notice must be prominent and must be written on a page that is separate from the other admission documents. The notice shall provide that:

(a) The facility will not participate in the medicaid program with respect to that resident; and

(b) The facility may transfer or discharge the resident from the facility for nonpayment, even if the resident becomes eligible for medicaid.

(3) Notwithstanding any other provision of this section, the medicaid contract under chapter 74.39A RCW that exists on the day the facility withdraws from medicaid participation is deemed to continue in effect as to the persons described in subsection (1) of this section for the purposes of:

(a) Department payments for the residential care and services provided to such persons;

(b) Maintaining compliance with all requirements of the medicaid contract between the department and the facility; and

(c) Ongoing inspection, contracting, and enforcement authority under the medicaid contract, regulations, and law.

(4) Except as provided in subsection (1) of this section, this section shall not apply to a person who begins residence in a facility on or after the effective date of the facility's withdrawal from participation in the medicaid program for residential care and services.

(5) A boarding home that is providing residential care and services under chapter 74.39A RCW shall give the department and its residents sixty days' advance notice of the facility's intent to withdraw from participation in the medicaid program.

(6) Prior to admission to the facility, a boarding home participating in the state medicaid program for residential care and services under chapter 74.39A

RCW must provide the following oral and written notices to prospective residents. The written notice must be prominent and must be written on a page that is separate from the other admission documents, and must provide that:

(a) In the future, the facility may choose to withdraw from participating in the medicaid program;

(b) If the facility withdraws from the medicaid program, it will continue to provide services to residents (i) who were receiving medicaid on the day before the effective date of the withdrawal; or (ii) who have been paying the facility privately for at least two years and who will become eligible for medicaid within one hundred eighty days of the date of withdrawal;

(c) After a facility withdraws from the medicaid program, it may transfer or discharge residents who do not meet the criteria described in this section for nonpayment, even if the resident becomes eligible for medicaid.

***Sec. 2. RCW 70.129.110 and 1997 c 392 s 205 are each amended to read as follows:**

***(1) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:**

***(a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;**

***(b) The safety of individuals in the facility is endangered;**

***(c) The health of individuals in the facility would otherwise be endangered;**

***(d) The resident has failed to make the required payment for his or her stay; or**

***(e) The facility ceases to operate.**

***(2) All long-term care facilities shall fully disclose to potential residents or their legal representative the service capabilities of the facility prior to admission to the facility. If the care needs of the applicant who is medicaid eligible are in excess of the facility's service capabilities, the department shall identify other care settings or residential care options consistent with federal law.**

***(3) All long-term care facilities shall fully disclose in writing to residents and potential residents, or their legal representative, the facility policy on accepting medicaid as a payment source. The policy shall clearly and plainly state the circumstances under which the facility will care for persons who are eligible for medicaid upon admission or who may later become eligible for medicaid. Disclosure must be provided prior to admission, and the facility must retain a copy of the disclosure signed by the resident or their legal representative. The facility policy on medicaid as a payment source as of the date of the resident's admission to the facility shall be considered a legally binding contract between the resident and the facility.**

***(4) Before a long-term care facility transfers or discharges a resident, the facility must:**

***(a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;**

***(b) Notify the resident and representative and make a reasonable effort to notify, if known, an interested family member of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;**

(c) Record the reasons in the resident's record; and

(d) Include in the notice the items described in subsection (((~~(5)~~))) (6) of this section.

(((~~(4)~~))) (5)(a) Except when specified in this subsection, the notice of transfer or discharge required under subsection (((~~(3)~~))) (4) of this section must be made by the facility at least thirty days before the resident is transferred or discharged.

(b) Notice may be made as soon as practicable before transfer or discharge when:

(i) The safety of individuals in the facility would be endangered;

(ii) The health of individuals in the facility would be endangered;

(iii) An immediate transfer or discharge is required by the resident's urgent medical needs; or

(iv) A resident has not resided in the facility for thirty days.

(((~~(5)~~))) (6) The written notice specified in subsection (((~~(3)~~))) (4) of this section must include the following:

(a) The reason for transfer or discharge;

(b) The effective date of transfer or discharge;

(c) The location to which the resident is transferred or discharged;

(d) The name, address, and telephone number of the state long-term care ombudsman;

(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under part C of the developmental disabilities assistance and bill of rights act; and

(f) For residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the protection and advocacy for mentally ill individuals act.

(((~~(6)~~))) (7) A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(((~~(7)~~))) (8) A resident discharged in violation of this section has the right to be readmitted immediately upon the first availability of a gender-appropriate bed in the facility.

***Sec. 2 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately, except for section 2 of this act which applies retroactively to September 1, 2007.

Passed by the Senate March 10, 2008.

Passed by the House March 5, 2008.

Approved by the Governor March 28, 2008, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 28, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 2, Substitute Senate Bill 6807 entitled:

"AN ACT Relating to discharge of long-term care residents."

Substitute Senate Bill 6807 prohibits a boarding home from transferring or discharging a current resident on the basis that it is voluntarily withdrawing from the Medicaid program.

Section 2 requires all long-term care facilities to disclose in writing to any potential resident prior to admission the facility policy on accepting Medicaid as a payment source. Upon admission, the disclosure will be considered a legally binding contract between the resident and the facility.

I am concerned that this section is impossible to implement retroactively, and there is no recourse for those who would be in violation of this bill the moment it becomes effective. In addition, Washington's administrative code already requires the disclosure contemplated in Section 2.

For these reasons, I have vetoed Section 2 of Substitute Senate Bill 6807.

With the exception of Section 2, Substitute Senate Bill 6807 is approved."

CHAPTER 252

[Engrossed Senate Bill 6821]

FISH AND WILDLIFE HARVEST MANAGEMENT

AN ACT Relating to fish and wildlife harvest management; amending RCW 42.56.430, 77.80.020, 77.80.050, and 77.80.060; and repealing RCW 77.80.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.56.430 and 2007 c 293 s 1 are each amended to read as follows:

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data may be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration; ((~~and~~))

(3) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040; and

(4) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b)).

Sec. 2. RCW 77.80.020 and 1984 c 67 s 1 are each amended to read as follows:

(1)(a) The department may purchase commercial fishing vessels and appurtenant gear, and the current state commercial fishing licenses, delivery permits, and charter boat licenses if the license or permit holder was substantially restricted in fishing as a result of compliance with *United States of America et al. v. State of Washington et al.,* Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974, and *Sohappy v. Smith,* 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976).

(b) The department may also make such purchases if the license or permit holder was substantially restricted in fishing as a result of compliance with *United States of America et al. v. State of Washington et al*., 873 F. Supp. 1422 (W.D. Wash. 1994) as affirmed in part, reversed in part, and remanded 157 F.3d 630 (9th Cir., 1998), if the federal government provides funding to the state for the purpose of initiating these purchases.

(2) The department shall not purchase a vessel under this section without also purchasing all current Washington commercial fishing licenses and delivery permits and charter boat licenses issued to the vessel or its owner. The department may purchase current licenses and delivery permits without purchasing the vessel.

Sec. 3. RCW 77.80.050 and 1995 c 269 s 3201 are each amended to read as follows:

The director shall adopt rules for the administration of ((~~the program~~)) this chapter. To assist the department in the administration of ((~~the program~~)) this chapter, the director may contract with persons not employed by the state and may enlist the aid of other state agencies.

Sec. 4. RCW 77.80.060 and 2000 c 107 s 91 are each amended to read as follows:

(1) The director is responsible for the administration and disbursement of all funds, goods, commodities, and services received by the state under ((~~the program~~)) this chapter.

(2) There is created within the state treasury a fund to be known as the "vessel, gear, license, and permit reduction fund". This fund shall be used for purchases under RCW 77.80.020 and for the administration of ((~~the program~~)) this chapter. This fund shall be credited with federal or other funds received to carry out the purposes of ((~~the program~~)) this chapter and the proceeds from the sale or other disposition of property purchased under RCW 77.80.020.

NEW SECTION. **Sec. 5.** RCW 77.80.010 (Definitions) and 2000 c 107 s 88, 1985 c 7 s 150, 1983 1st ex.s. c 46 s 155, 1977 ex.s. c 230 s 3, & 1975 1st ex.s. c 183 s 3 are each repealed.

Passed by the Senate March 11, 2008.
Passed by the House March 7, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 253

[Senate Bill 6885]

DRIVING RECORDS—ABSTRACTS

AN ACT Relating to abstracts of driving records; amending RCW 46.52.130; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.52.130 and 2007 c 424 s 3 are each amended to read as follows:

(1) A certified abstract of the driving record shall be furnished only to:

(a) The individual named in the abstract;

(b) An employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with mental or physical disabilities;

(c) An employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs;

(d) The insurance carrier that has insurance in effect covering the employer or a prospective employer;

(e) The insurance carrier that has motor vehicle or life insurance in effect covering the named individual;

(f) The insurance carrier to which the named individual has applied;

(g) An alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment; ((~~or~~))

(h) City and county prosecuting attorneys; or

(i) State colleges, universities, or agencies for employment and risk management purposes; or units of local government authorized to self-insure under RCW 48.62.031.

(2) City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(3)(a) The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies.

(b) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and subject to the same restrictions as certified abstracts.

(4) Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years.

(5) Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract, to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual, or to a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, or to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(6) The abstract, whenever possible, shall include:

(a) An enumeration of motor vehicle accidents in which the person was driving;

(b) The total number of vehicles involved;

(c) Whether the vehicles were legally parked or moving;

(d) Whether the vehicles were occupied at the time of the accident;

(e) Whether the accident resulted in any fatality;

(f) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(g) The status of the person's driving privilege in this state; and

(h) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(7) Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).

(8) The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or firefighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

(9) The director shall collect for each abstract the sum of ten dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.

(10) Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(11) Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, receiving the certified abstract shall use it exclusively for his or her own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, upon the public highways of this state and shall not divulge any information contained in it to a third party.

(12) Any employee or agent of a transit authority receiving a certified abstract for its vanpool program shall use it exclusively for determining whether the volunteer licensee meets those insurance and risk management requirements necessary to drive a vanpool vehicle. The transit authority may not divulge any information contained in the abstract to a third party.

(13) Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

(14) Release of a certified abstract of the driving record of an employee, prospective employee, or prospective volunteer requires a statement signed by: (a) The employee, prospective employee, or prospective volunteer that authorizes the release of the record, and (b) the employer or volunteer organization attesting that the information is necessary to determine whether the licensee should be employed to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, upon the public highways of this state. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. This subsection does not apply to entities identified in subsection (1)(i) of this section.

(15) Any negligent violation of this section is a gross misdemeanor.

(16) Any intentional violation of this section is a class C felony.

NEW SECTION. **Sec. 2.** This act takes effect August 1, 2008.

Passed by the Senate February 15, 2008.
Passed by the House March 5, 2008.
Approved by the Governor March 28, 2008.
Filed in Office of Secretary of State March 28, 2008.

CHAPTER 254

[Engrossed Substitute Senate Bill 5831]
HVAC AND REFRIGERATION—CERTIFICATION

AN ACT Relating to certification of heating, ventilation, air conditioning, and refrigeration contractors and mechanics; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1)(a) Whereas it is necessary for the public health and safety to create statewide contractor registration and mechanic certification requirements, a joint legislative task force on the heating, ventilating, air conditioning, and refrigeration industry is established, with members as provided in this subsection.

(i) The chair and the ranking member of the senate labor, commerce, research and development committee;

(ii) The chair and the ranking member of the house commerce and labor committee;

(iii) The majority leader of the senate shall appoint one member from each of the two largest caucuses of the senate;

(iv) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(v) Four members representing business, selected from nominations submitted by business organizations representing heating, ventilating, air

conditioning, and refrigeration contractors and appointed jointly by the majority leader of the senate and the speaker of the house of representatives. At least one business representative shall be from a county that has a contiguous border with another state;

(vi) Four members representing labor, selected from nominations submitted by statewide labor organizations representing heating, ventilating, air conditioning, and refrigeration trades and appointed jointly by the majority leader of the senate and the speaker of the house of representatives. At least one labor representative shall be from a county that has a contiguous border with another state; and

(vii) One member representing the department of labor and industries.

(b) The cochairs of the task force shall be the chair of the senate labor, commerce, research and development committee and the chair of the house commerce and labor committee.

(2) The joint legislative task force shall review the following issues in the context of the framework set forth in Senate Bill No. 5831 and joint legislative audit and review committee report No. 05-12 on HVAC/R licensing and testing requirements:

(a) Requirements for certifying heating, ventilating, air conditioning, and refrigeration mechanics;

(b) Methods of registering heating, ventilating, air conditioning, and refrigeration contractors who qualify for two or more registrations or licenses;

(c) Establishing at least three levels of heating, ventilating, air conditioning, and refrigeration mechanics, with the ability to be certified in several specialities including: (i) Heating, ventilating, and air conditioning; (ii) refrigeration; and (iii) gas piping;

(d) The experience requirements for each mechanic level;

(e) The methods by which apprentices and other persons learning to perform heating, ventilating, air conditioning, and refrigeration work obtain training certificates;

(f) Exemptions to the registration or certification requirements; and

(g) Such other factors the joint legislative task force deems necessary.

(3) Legislative members of the joint legislative task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) The expenses of the joint legislative task force shall be paid jointly by the senate and the house of representatives.

(5) The joint legislative task force shall report its findings and recommendations to the legislature by December 1, 2008.

(6) This section expires January 1, 2009.

Passed by the Senate March 12, 2008.
Passed by the House March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 255

[Second Engrossed Substitute Senate Bill 5905]
CERTIFICATES OF CAPITAL AUTHORIZATION

AN ACT Relating to certificate of capital authorization; and amending RCW 74.46.803 and 74.46.807.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.46.803 and 2001 1st sp.s. c 8 s 16 are each amended to read as follows:

(1) The department shall establish rules for issuing a certificate of capital authorization. ((~~Applications for a certificate of capital authorization shall be submitted and approved on a biennial basis.~~)) The rules shall address the following subjects, among others:

(a) The period of time during which applications for certificates of capital authorization will be accepted;

(b) The period of time for which a certificate of capital authorization will be valid; and

(c) The prioritization of applications for certificates of capital authorization, consistent with the principles set out in this section.

(2) The rules for a certificate of capital authorization shall be consistent with the following principles:

(((~~(1) The certificate of capital authorization shall be approved on a first-come, first-served basis.~~

~~(2) Those projects that do not receive approval in one authorization period shall have priority the following biennium should the project be resubmitted.~~))

(a) A certificate of capital authorization is only required for capital expenditures exceeding the expenditure minimum as defined in RCW 70.38.025.

(b) Certificate of capital authorization applications must be filed with the department by the end of the previous calendar year to be considered for priority assignment the following state fiscal year beginning July 1. For example, a facility requesting a certificate of capital authorization for state fiscal year July 1, 2009, through June 30, 2010, must file a request for capital authorization no later than December 31, 2008. Within ninety days of receipt of an application, the department shall either reject the application as unacceptable or act upon it.

(c) In processing and approving certificates of capital authorization filed with the department in accordance with (b) of this subsection, the department shall give priority approval in the following order:

(i) First priority shall be given to applications for renovation or replacement on existing facilities that incorporate innovative building designs that create more home-like settings. Of these applications, preference shall be given to the greatest length of time since the last major renovation or construction.

(ii) Second priority shall be given to renovations of existing facilities with the greatest length of time since their last major renovation or construction.

(iii) Third priority shall be given to replacements of existing facilities with the greatest length of time since their last major renovation or construction.

(iv) Last priority shall be given to new facilities and shall be processed on a first-come, first-served basis.

(d) Within the priorities established by this section, applications for certificates of capital authorization that do not receive approval in one state

fiscal year because that year's authorization limit has been reached shall have priority the following fiscal year if the applications are resubmitted.

(3) The department shall have the authority to give first priority for a project that is necessitated by an emergency situation even if the project is not submitted in a timely fashion. ((~~The department shall establish rules for determining what constitutes an emergency.~~)) Projects shall be considered on an emergency basis if the construction or renovation must be completed as soon as possible to:

(a) Retain a facility's license or certification;

(b) Protect the health or safety of the facility's residents; or

(c) Avoid closure.

(4) The department shall establish deadlines for progress and the department shall have the authority to withdraw the certificate of capital authorization where the holder of the certificate has not complied with those deadlines in a good faith manner.

Sec. 2. RCW 74.46.807 and 2001 1st sp.s. c 8 s 15 are each amended to read as follows:

The total capital authorization available for any ((~~biennial period~~)) state fiscal year shall be specified in the biennial appropriations act and shall be calculated on an annual basis. ((~~When setting the capital authorization level, the legislature shall consider both the need for, and the cost of, new and replacement beds.~~))

Passed by the Senate March 13, 2008.
Passed by the House March 11, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 256

[Engrossed Substitute Senate Bill 5959]
HOUSING—TRANSITIONAL—AVAILABILITY

AN ACT Relating to expanding availability of housing for individuals and families at risk of homelessness; creating new sections; and repealing RCW 59.18.600.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5) Beginning in 2011, each eligible organization receiving over five hundred thousand dollars during the previous calendar year from the transitional housing operating and rent program and from sources including: (a) State housing-related funding sources; (b) the affordable housing for all surcharge in RCW 36.22.178; (c) the home security fund surcharges in RCW 36.22.179 and 36.22.1791; and (d) any other surcharge imposed under chapter 36.22 or 43.185C RCW to fund homelessness programs or other housing programs, shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years.

(6) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

(7) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to support: (i) One adult

individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

NEW SECTION. **Sec. 2.** The transitional housing operating and rent account is created in the custody of the state treasurer. All receipts from sources directed to the transitional housing operating and rent program must be deposited into the account. Expenditures from the account may be used solely for the purpose of the transitional housing operating and rent program as described in section 1 of this act. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 3.** RCW 59.18.600 (Rental to offenders—Limitation on liability) and 2007 c 483 s 602 are each repealed.

Passed by the Senate March 13, 2008.
Passed by the House March 13, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 257

[Substitute Senate Bill 6277]
TRANSIT PROVIDERS—PRIVATE—PARK AND RIDE LOTS

AN ACT Relating to accommodating certain private transit providers at park and ride lots; and adding a new section to chapter 47.04 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW to read as follows:

(1) Any local transit agency that has received state funding for a park and ride lot shall make reasonable accommodation for use of that lot by auto transportation companies regulated under chapter 81.68 RCW and private, nonprofit transportation providers regulated under chapter 81.66 RCW, that intend to provide or already provide regularly scheduled service at that lot. The accommodation must be in the form of an agreement between the applicable local transit agency and private transit provider regulated under chapter 81.68 or 81.66 RCW. The transit agency may require that the agreement include provisions to recover costs and fair market value for the use of the lot and its related facilities and to provide adequate insurance and indemnification of the transit agency, and other reasonable provisions to ensure that the private transit provider's use does not unduly burden the transit agency. No accommodation is

required, and any agreement may be terminated, if the park and ride lot is at or exceeds ninety percent capacity.

(2) A local transit agency described under subsection (1) of this section may enter into a cooperative agreement with a taxicab company regulated under chapter 81.72 RCW in order to accommodate the taxicab company at the agency's park and ride lot, provided the taxicab company must agree to provide service with reasonable availability, subject to schedule coordination provisions as agreed to by the parties.

Passed by the Senate March 12, 2008.
Passed by the House March 11, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 258

[Engrossed Substitute Senate Bill 6295]

LEARNING OPPORTUNITIES—WORKPLACE-BASED

AN ACT Relating to workplace-based electronically distributed learning; adding new sections to chapter 28C.18 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that there are many working adults in Washington that need additional postsecondary educational opportunities to further develop their employability. The legislature further finds that many of these people postpone or call off their personal educational plans because they are busy working and raising their families. Because the largest portion of our workforce over the next thirty years is already employed but in need of skill development, and because many low-wage, low-skilled, and mid-skilled individuals cannot take advantage of postsecondary educational opportunities as they currently exist, the legislature intends to identify and test additional postsecondary educational opportunities tailored to make postsecondary education accessible to working adults through the use of campuses extended to include workplace-based educational offerings.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) To the extent funds are appropriated specifically for this purpose and in partnership with the state board for community and technical colleges, the board shall convene a work group that includes representatives from the prosperity partnership, the technology alliance, the higher education coordinating board, a private career or vocational school, a four-year public institution of higher education, the council of faculty representatives, the united faculty of Washington state, community and technical college faculty, and a community and technical college student, to take the following actions related to electronically distributed learning:

(a) Identify and evaluate current national private employer workplace-based educational programs with electronically distributed learning components provided by public colleges and universities. The evaluation shall include:

(i) A review of the literature and interviews of practitioners about promising practices and results;

(ii) An initial determination of feasibility based on targeted populations served, subject matter, and level of education;

(iii) An overview of technological considerations and adult learning strategies for distribution of learning to employer sites; and

(iv) An overview of cost factors, including shared costs or coinvestments by public and private partners;

(b) Review and, to the extent necessary, establish standards and best practices regarding electronically distributed learning and related support services including online help desk support, advising, mentoring, counseling, and tutoring;

(c) Recommend methods to increase student access to electronically distributed learning programs of study and identify barriers to programs of study participation and completion;

(d) Determine methods to increase the institutional supply and quality of open course materials, with a focus on the OpenCourseWare initiative at the Massachusetts Institute of Technology;

(e) Recommend methods to increase the availability and use of digital open textbooks; and

(f) Review and report demographic information on electronically distributed learning programs of study enrollments, retention, and completions.

(2) The board shall work in cooperation with the state board for community and technical colleges to report the preliminary results of the studies to the appropriate committees of the legislature by December 1, 2008, and a final report by December 1, 2009.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) To the extent funds are appropriated specifically for this purpose, the board shall use a matching fund strategy to select and evaluate up to eight pilot projects operated by Washington institutions of higher education. By September 2008, the board shall select up to eight institutions of higher education as defined in RCW 28B.92.030 including at least four community or technical colleges to develop and offer a pilot project providing employer workplace-based educational programs with distance learning components. The board shall convene a task force that includes representatives from the state board for community and technical colleges and the higher education coordinating board to select the participant institutions. At a minimum, the criteria for selecting the educational institutions shall address:

(a) The ability to demonstrate a capacity to make a commitment of resources to build and sustain a high quality program;

(b) The ability to readily engage faculty appropriately qualified to develop and deliver a high quality curriculum;

(c) The ability to demonstrate demand for the proposed program from a sufficient number of interested employees within its service area to make the program cost-effective and feasible to operate; and

(d) The identification of employers that demonstrate a commitment to host an on-site program. Employers shall demonstrate their commitment to provide:

(i) Access to educational coursework and educational advice and support for entry-level and semiskilled workers, including paid and unpaid release time, and

adequate classroom space that is equipped appropriately for the selected technological distance learning methodologies to be used;

(ii) On-site promotion and encouragement of worker participation, including employee orientations, peer support and mentoring, educational tutoring, and career planning;

(iii) Allowance of a reasonable level of worker choice in the type and level of coursework available;

(iv) Commitment to work with college partner to ensure the relevance of coursework to the skill demands and potential career pathways of the employer host site and other participating employers;

(v) Willingness to participate in an evaluation of the pilot to analyze the net benefit to the employer host site, other employer partners, the worker-students, and the colleges; and

(vi) In firms with union representation, the mandatory establishment of a labor-management committee to oversee design and participation.

(2) Institutions of higher education may submit an application to become a pilot college under this section. An institution of higher education selected as a pilot college shall develop the curriculum for and design and deliver courses. However, the programs developed under this section are subject to approval by the state board for technical and community colleges under RCW 28B.50.090 and by the higher education coordinating board under RCW 28B.76.230.

(3) The board shall evaluate the pilot project and report the outcomes to students and employers by December 1, 2012.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28C.18 RCW to read as follows:

The board may receive and expend federal funds and private gifts or grants, which funds must be expended in accordance with any conditions upon which the funds are contingent.

NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act expire December 31, 2012.

Passed by the Senate March 12, 2008.
Passed by the House March 11, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 259

[Substitute Senate Bill 6306]

DEPENDENT CHILDREN—VISITATION RIGHTS—RELATIVES

AN ACT Relating to visitation rights for relatives of dependent children; amending RCW 26.09.405; and adding a new section to chapter 13.34 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW to read as follows:

(1) A relative of a dependent child may petition the juvenile court for reasonable visitation with the child if:

(a) The child has been found to be a dependent child under this chapter;

(b) The parental rights of both of the child's parents have been terminated;

(c) The child is in the custody of the department or another public or private agency; and

(d) The child has not been adopted and is not in a preadoptive home or other permanent placement at the time the petition for visitation is filed.

(2) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or public or private agency having custody of the child, the child's attorney or guardian ad litem if applicable, and the child. The court shall also order the custodial agency to give prior notice of any hearing to the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(3) The juvenile court may grant the petition for visitation if it finds that the requirements of subsection (1) of this section have been met, and that unsupervised visitation between the child and the relative does not present a risk to the child's safety or well-being and that the visitation is in the best interests of the child. In determining the best interests of the child the court shall consider, but is not limited to, the following:

(a) The love, affection, and strength of the relationship between the child and the relative;

(b) The length and quality of the prior relationship between the child and the relative;

(c) Any criminal convictions for or founded history of abuse or neglect of a child by the relative;

(d) Whether the visitation will present a risk to the child's health, welfare, or safety;

(e) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference;

(f) Any other factor relevant to the child's best interest.

(4) The visitation order may be modified at any time upon a showing that the visitation poses a risk to the child's safety or well-being. The visitation order shall state that visitation will automatically terminate upon the child's placement in a preadoptive home, if the child is adopted, or if there is a subsequent founded abuse or neglect allegation against the relative.

(5) The granting of the petition under this section does not grant the relative the right to participate in the dependency action and does not grant any rights to the relative not otherwise specified in the visitation order.

(6) This section is retroactive and applies to any eligible dependent child at the time of the filing of the petition for visitation, regardless of the date parental rights were terminated.

(7) For the purpose of this section, "relative" means a relative as defined in RCW 74.15.020(2)(a), except parents.

(8) This section is intended to provide an additional procedure by which a relative may request visitation with a dependent child. It is not intended to impair or alter the ability a court currently has to order visitation with a relative under the dependency statutes.

Sec. 2. RCW 26.09.405 and 2000 c 21 s 3 are each amended to read as follows:

(1) The provisions of RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 apply to a court order regarding residential time or visitation with a child issued:

(a) After June 8, 2000; and

(b) Before June 8, 2000, if the existing court order does not expressly govern relocation of the child.

(2) To the extent that a provision of RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 conflicts with the express terms of a court order existing prior to June 8, 2000, then RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 do not apply to those terms of that order governing relocation of the child.

(3) The provisions of RCW 26.09.405 through 26.09.560 do not apply to visitation orders entered in dependency proceedings as provided in section 1 of this act.

Passed by the Senate February 14, 2008.
Passed by the House March 7, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 260

[Senate Bill 6375]

TRAIL GROOMING—TAX EXEMPTION

AN ACT Relating to providing a sales tax exemption for trail grooming on private and state-owned land; and adding a new section to chapter 82.08 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 does not apply to sales of trail grooming services to the state of Washington or nonprofit corporations organized under chapter 24.03 RCW. For the purposes of this section, "trail grooming" means the activity of snow compacting, snow redistribution, or snow removal on state-owned or privately owned trails.

Passed by the Senate February 28, 2008.
Passed by the House March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 261

[Substitute Senate Bill 6404]

BEHAVIORAL HEALTH SERVICES

AN ACT Relating to community-based behavioral health services; amending RCW 71.24.025, 71.24.300, 71.24.320, and 71.24.330; reenacting and amending RCW 71.24.035; adding a new section to chapter 71.24 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24 RCW to read as follows:

In the event that an existing regional support network will no longer be contracting to provide services, it is the intent of the legislature to provide

flexibility to the department to facilitate a stable transition which avoids disruption of services to consumers and families, maximizes efficiency and public safety, and maintains the integrity of the public mental health system. By granting this authority and flexibility, the legislature finds that the department will be able to maximize purchasing power within allocated resources and attract high quality organizations with optimal infrastructure to perform regional support network functions through competitive procurement processes. The legislature intends for the department of social and health services to partner with political subdivisions and other entities to provide quality, coordinated, and integrated services to address the needs of individuals with behavioral health needs.

Sec. 2. RCW 71.24.025 and 2007 c 414 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) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(3) "Child" means a person under the age of eighteen years.

(4) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(5) "Clubhouse" means a community-based program that provides rehabilitation services and is certified by the department of social and health services.

(6) "Community mental health program" means all mental health services, activities, or programs using available resources.

(7) "Community mental health service delivery system" means public or private agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(8) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by regional support networks.

(9) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(10) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

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

(12) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(13) "Emerging best practice" or "promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(14) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(15) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, that meets state minimum standards or persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(16) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release

or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(17) "Mental health services" means all services provided by regional support networks and other services provided by the state for persons who are mentally ill.

(18) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (4), (27), and (28) of this section.

(19) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

(20) "Regional support network" means a county authority or group of county authorities or other ((~~nonprofit~~)) entity recognized by the secretary in contract in a defined region.

(21) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

(22) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(23) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, boarding homes, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(24) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(25) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined solely by a regional support network to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under

the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated mental health professionals, evaluation and treatment facilities, and others as determined by the regional support network.

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

(27) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(28) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(29) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.

(30) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(31) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.

Sec. 3. RCW 71.24.035 and 2007 c 414 s 2, 2007 c 410 s 8, and 2007 c 375 s 12 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045, until such time as a new regional support network is designated under RCW 71.24.320.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are defendants in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related

services, that result in persons with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are defendants in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards ((~~and~~)), RCW 71.24.320((~~,~~)) and 71.24.330((~~, and 71.24.3201~~)), which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards; and

(p) Certify clubhouses that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

(15) The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 4. RCW 71.24.300 and 2006 c 333 s 106 are each amended to read as follows:

(1) Upon the request of a tribal authority or authorities within a regional support network the joint operating agreement or the county authority shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network.

(2) The roles and responsibilities of the county and tribal authorities shall be determined by the terms of that agreement including a determination of membership on the governing board and advisory committees, the number of tribal representatives to be party to the agreement, and the provisions of law and shall assure the provision of culturally competent services to the tribes served.

(3) The state mental health authority may not determine the roles and responsibilities of county authorities as to each other under regional support networks by rule, except to assure that all duties required of regional support networks are assigned and that counties and the regional support network do not duplicate functions and that a single authority has final responsibility for all available resources and performance under the regional support network's contract with the secretary.

(4) If a regional support network is a private ((~~nonprofit~~)) entity, the department shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network.

(5) The roles and responsibilities of the private ((~~nonprofit~~)) entity and the tribal authorities shall be determined by the department, through negotiation with the tribal authority.

(6) Regional support networks shall submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources all of the following duties:

(a) Administer and provide for the availability of all resource management services, residential services, and community support services.

(b) Administer and provide for the availability of all investigation, transportation, court-related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.

(c) Provide within the boundaries of each regional support network evaluation and treatment services for at least ninety percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Regional support networks may contract to purchase evaluation and treatment

services from other networks if they are unable to provide for appropriate resources within their boundaries. Insofar as the original intent of serving persons in the community is maintained, the secretary is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and treatment services within the boundaries of each regional support network. Such exceptions are limited to:

(i) Contracts with neighboring or contiguous regions; or

(ii) Individuals detained or committed for periods up to seventeen days at the state hospitals at the discretion of the secretary.

(d) Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as defined in RCW 71.24.035, and mental health services to children.

(e) Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.

(7) A regional support network may request that any state-owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the ((~~mentally ill~~)) persons with mental illness and which is within the boundaries of a regional support network be made available to support the operations of the regional support network. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.

(8) Each regional support network shall appoint a mental health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the regional support network, and work with the regional support network to resolve significant concerns regarding service delivery and outcomes. The department shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the department regarding regional support network performance. The composition of the board shall be broadly representative of the demographic character of the region and shall include, but not be limited to, representatives of consumers and families, law enforcement, and where the county is not the regional support network, county elected officials. Composition and length of terms of board members may differ between regional support networks but shall be included in each regional support network's contract and approved by the secretary.

(9) Regional support networks shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the secretary.

(10) Regional support networks may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be fully integrated with the regional support network six-year operating and capital plan, timeline, and budget required by subsection (6) of this section.

Sec. 5. RCW 71.24.320 and 2006 c 333 s 202 are each amended to read as follows:

(1) ((~~The secretary shall initiate a procurement process for regional support networks in 2005. In the first step of the procurement process, existing regional support networks may respond to a request for qualifications developed by the department. The secretary shall issue the request for qualifications not later than October 1, 2005. The request for qualifications shall be based on cost-effectiveness, adequate residential and service capabilities, effective collaboration with criminal justice agencies and the chemical dependency treatment system, and the ability to provide the full array of services as stated in the mental health state plan, and shall meet all applicable federal and state regulations and standards. An existing regional support network shall be awarded the contract with the department if it substantially meets the requirements of the request for qualifications developed by the department.~~

~~(2)(a)~~)) If an existing regional support network chooses not to respond to ((~~the~~)) a request for qualifications, or is unable to substantially meet the requirements of ((~~the~~)) a request for qualifications, or notifies the department of social and health services it will no longer serve as a regional support network, the department shall utilize a procurement process in which other entities recognized by the secretary may bid to serve as the regional support network ((~~in that region. The procurement process shall begin with a request for proposals issued March 1, 2006~~)).

(((~~(i)~~))) (a) The request for proposal shall include a scoring factor for proposals that include additional financial resources beyond that provided by state appropriation or allocation.

(((~~(ii) Regional support networks that substantially met the requirements of the request for qualifications may bid to serve as the regional support network for other regions of the state that are subject to the request for proposal process. The proposal shall be evaluated on whether the bid meets the threshold requirement for the new region and shall not subject the regional support networks' original region to the request for proposal.~~

~~(b) Prior to final evaluation and scoring of the proposals all respondents will be provided with an opportunity for a detailed briefing by the department regarding the deficiencies in the proposal and shall be provided an opportunity to clarify information previously submitted.~~))

(b) The department shall provide detailed briefings to all bidders in accordance with department and state procurement policies.

(c) The request for proposal shall also include a scoring factor for proposals submitted by nonprofit entities that include a component to maximize the utilization of state provided resources and the leverage of other funds for the support of mental health services to persons with mental illness.

(2) A regional support network that voluntarily terminates, refuses to renew, or refuses to sign a mandatory amendment to its contract to act as a regional support network is prohibited from responding to a procurement under this section or serving as a regional support network for five years from the date that the department signs a contract with the entity that will serve as the regional support network.

Sec. 6. RCW 71.24.330 and 2006 c 333 s 203 are each amended to read as follows:

(1) Contracts between a regional support network and the department shall include mechanisms for monitoring performance under the contract and

remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial penalties, termination of the contract, and reprocurement of the contract.

(2) The regional support network procurement processes shall encourage the preservation of infrastructure previously purchased by the community mental health service delivery system, the maintenance of linkages between other services and delivery systems, and maximization of the use of available funds for services versus profits. However, a regional support network selected through the procurement process is not required to contract for services with any county-owned or operated facility. The regional support network procurement process shall provide that public funds appropriated by the legislature shall not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(3) In addition to the requirements of RCW 71.24.035, contracts shall:

(a) Define administrative costs and ensure that the regional support network does not exceed an administrative cost of ten percent of available funds;

(b) Require effective collaboration with law enforcement, criminal justice agencies, and the chemical dependency treatment system;

(c) Require substantial implementation of department adopted integrated screening and assessment process and matrix of best practices;

(d) Maintain the decision-making independence of designated mental health professionals;

(e) Except at the discretion of the secretary or as specified in the biennial budget, require regional support networks to pay the state for the costs associated with individuals who are being served on the grounds of the state hospitals and who are not receiving long-term inpatient care as defined in RCW 71.24.025; ((~~and~~))

(f) Include a negotiated alternative dispute resolution clause; and

(g) Include a provision requiring either party to provide one hundred eighty days' notice of any issue that may cause either party to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to act as a regional support network. If either party decides to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to serve as a regional support network they shall provide ninety days' advance notice in writing to the other party.

NEW SECTION. **Sec. 7.** Section 5 of this act applies retroactively to July 1, 2007.

Passed by the Senate March 12, 2008.

Passed by the House March 11, 2008.

Approved by the Governor March 31, 2008.

Filed in Office of Secretary of State April 1, 2008.

CHAPTER 262

[Engrossed Second Substitute Senate Bill 6438]

TECHNOLOGY OPPORTUNITIES—HIGH-SPEED INTERNET

AN ACT Relating to a statewide high-speed internet deployment and adoption initiative; adding new sections to chapter 43.105 RCW; adding a new chapter to Title 28B RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds and declares the following:

(a) The deployment and adoption of high-speed internet services and information technology has resulted in enhanced economic development and public safety for the state's communities, improved health care and educational opportunities, and a better quality of life for the state's residents;

(b) Continued progress in the deployment and adoption of high-speed internet services and other advanced telecommunications services, both land-based and wireless, is vital to ensuring Washington remains competitive and continues to create business and job growth; and

(c) That the state must encourage and support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology for state residents and businesses.

(2) Therefore, in order to begin advancing the state towards further growth and development of high-speed internet in the state, and to ensure a better quality of life for all state residents, it is the legislature's intent to conduct a statewide needs assessment of broadband internet resources through an open dialogue with all interested parties, including providers, unions, businesses, community organizations, local governments, and state agencies. The legislature intends to use this needs assessment in guiding future plans on how to ensure that every resident in Washington state may gain access to high-speed internet services and, as part of this effort, to address digital literacy and technology training needs of low-income and technology underserved residents of the state through state support of community technology programs.

NEW SECTION. **Sec. 2.** (1) After the broadband study authorized by the legislature in 2007 has been completed, or by July 15, 2008, the department of information services, in coordination with the department of community, trade, and economic development and the utilities and transportation commission, shall convene a work group to develop a high-speed internet deployment and adoption strategy for the state.

(2) The department of information services shall invite representatives from the following organizations to participate in the work group:

(a) Representatives of public, private, and nonprofit agencies and organizations representing economic development, local community development, local government, community planning, technology planning, education, and health care;

(b) Representatives of telecommunications providers, technology companies, telecommunications unions, public utilities, and relevant private sector entities;

(c) Representatives of community-based organizations; and

(d) Representatives of other relevant entities as the department of information services may deem appropriate.

(3) The department of information services shall, in consultation with the work group, develop a high-speed internet deployment and adoption strategy to accomplish the following objectives:

(a) Create and regularly update a detailed, geographic information system map at the census block level of the high-speed internet services and other relevant telecommunications and information technology services owned or leased by public entities in the state with instructions on how proprietary and competitively sensitive data will be handled, stored, and used. Development of this geographic information system map may include collaboration with students and faculty at community colleges and universities in the state. The statewide inventory must, at a minimum, detail:

(i) The physical location of all high-speed internet infrastructure owned or leased by public entities;

(ii) The amount of excess capacity available; and

(iii) Whether the high-speed internet infrastructure is active or inactive;

(b) Work collaboratively with telecommunications providers and internet service providers to assess, create, and regularly update a geographic information system map at the census block level of the privately owned high-speed internet infrastructure in the state, with instructions on how proprietary and competitively sensitive data will be handled, stored, and used;

(c) Combine the geographic information system map of high-speed internet infrastructure owned by public entities with the geographic information system map of high-speed internet infrastructure owned by private entities to create and regularly update a statewide inventory of all high-speed internet infrastructure in the state;

(d) Use the geographic information system map of all high-speed internet infrastructure in the state, both public and privately owned or leased, to identify and regularly update the geographic gaps in high-speed internet service, including an assessment of the population located in each of the geographic gaps;

(e) Spur the development of high-speed internet resources in the state, which may include, but is not limited to, soliciting funding in the form of grants or donations; establishing technology literacy programs in conjunction with institutions of higher education; establishing low-cost hardware and software purchasing programs; and developing loan programs targeting small businesses or businesses located in underserved areas;

(f) Track statewide residential and business adoption of high-speed internet, computers, and related information technology, including an identification of barriers to adoption;

(g) Build and facilitate local technology planning teams and partnerships with members representing cross-sections of the community, which may include participation from the following organizations: Representatives of business, telecommunications unions, K-12 education, community colleges, local economic development organizations, health care, libraries, universities, community-based organizations, local governments, tourism, parks and recreation, and agriculture;

(h) Use the local technology planning teams and partnerships to:

(i) Conduct a needs assessment; and

(ii) Work collaboratively with high-speed internet providers and technology companies across the state to encourage deployment and use, especially in unserved areas, through use of local demand aggregation, mapping analysis, and creation of market intelligence to improve the investment rationale and business case; and

(i) Work with Washington State University extension pursuant to section 6 of this act to establish low-cost programs to improve computer ownership, technology literacy, and high-speed internet access for disenfranchised or unserved populations across the state.

(4) By September 1, 2008, the department of information services shall provide a status update to the telecommunications committees in the house of representatives and the senate, outlining the progress made to date by the work group and the issues remaining to be considered.

(5) By December 1, 2008, the department of information services shall complete the high-speed internet deployment and adoption strategy and provide a report to the fiscal and telecommunications committees in the house of representatives and the senate, the governor, and the office of financial management. The main objective of the report is to outline, based on the efforts of the work group, what legislation is needed in order to implement the high-speed internet deployment and adoption strategy, including a range of potential funding requests to accompany the legislation. Specifically, the report shall include the following:

(a) Benchmarks, performance measures, milestones, deliverables, timelines, and such other indicators of performance and progress as are necessary to guide development and implementation of the high-speed internet deployment and adoption strategy, both short term and long term, including an assessment of the amount of funding needed to accomplish a baseline assessment of the high-speed internet infrastructure owned by public and private entities of the state in an eighteen-month period; and

(b) Ways to structure and appropriately scale and phase development and implementation of the high-speed internet deployment and adoption strategy so as to link to, leverage, and otherwise synchronize with other relevant and related funding, technology, capital initiatives, investments, and opportunities.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.105 RCW to read as follows:

(1) For purposes of compliance with section 2 of this act or any subsequent high-speed internet deployment and adoption initiative, the department of information services, the department of community, trade, and economic development, the utilities and transportation commission, and any other government agent or agency shall not gather or request any information related to high-speed internet infrastructure or service from providers of telecommunications or high-speed internet services that is classified by the provider as proprietary or competitively sensitive.

(2) Nothing in this section may be construed as limiting the authority of a state agency or local government to gather or request information from providers of telecommunications or high-speed internet services for other purposes pursuant to its statutory authority.

NEW SECTION. **Sec. 4.** Nothing in this act may be construed as giving the department of information services or any other entities any additional authority, regulatory or otherwise, over providers of telecommunications and information technology.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.105 RCW to read as follows:

(1) By January 1, 2009, the department, in consultation with Washington State University, shall identify and make publicly available a web directory of public facilities that provide community technology programs throughout the state.

(2) For the purposes of this section, "community technology program" has the same meaning as in section 7 of this act.

NEW SECTION. **Sec. 6.** The community technology opportunity program is created to support the efforts of community technology programs throughout the state. The community technology opportunity program must be administered by the Washington State University extension, in consultation with the department of information services. The Washington State University extension may contract for services in order to carry out the extension's obligations under this section.

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

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

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

(2) Grant applicants must:

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 7.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the community technology opportunity program administrator designated by the Washington State University extension.

(2) "Community technology program" means a program, including a digital inclusion program, engaged in diffusing information and communications technology in local communities, particularly in underserved areas. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet connectivity, and development of locally relevant content and delivery of vital services through technology.

NEW SECTION. **Sec. 8.** The Washington community technology opportunity account is established in the state treasury. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only for the operation of the community technology opportunity program as provided in section 6 of this act. Only the administrator or the administrator's designee may authorize expenditures from the account.

NEW SECTION. **Sec. 9.** Sections 6 through 8 of this act constitute a new chapter in Title 28B RCW.

NEW SECTION. **Sec. 10.** If sections 1 through 5 of this act become null and void, the department of information services shall include high-speed internet adoption and deployment in its 2009-2011 strategic plan.

NEW SECTION. **Sec. 11.** If specific funding for the purposes of sections 1 through 5 of this act, referencing sections 1 through 5 of this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, sections 1 through 5 of this act are null and void.

Passed by the Senate March 12, 2008.

Passed by the House March 11, 2008.

Approved by the Governor March 31, 2008.

Filed in Office of Secretary of State April 1, 2008.

CHAPTER 263

[Engrossed Senate Bill 6629]

MEDICAID—NURSING FACILITY PAYMENT SYSTEM—CLARIFICATIONS

AN ACT Relating to making clarifications to the nursing facility medicaid payment system in relation to the use of minimum occupancy in setting cost limits and application of the statewide average payment rate specified in the biennial appropriations act; amending RCW 74.46.421, 74.46.431, 74.46.511, and 74.46.515; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.46.421 and 2001 1st sp.s. c 8 s 4 are each amended to read as follows:

(1) The purpose of part E of this chapter is to determine nursing facility medicaid payment rates that, in the aggregate for all participating nursing facilities, are in accordance with the biennial appropriations act.

(2)(a) The department shall use the nursing facility medicaid payment rate methodologies described in this chapter to determine initial component rate allocations for each medicaid nursing facility.

(b) The initial component rate allocations shall be subject to adjustment as provided in this section in order to assure that the statewide average payment rate to nursing facilities is less than or equal to the statewide average payment rate specified in the biennial appropriations act.

(3) Nothing in this chapter shall be construed as creating a legal right or entitlement to any payment that (a) has not been adjusted under this section or (b) would cause the statewide average payment rate to exceed the statewide average payment rate specified in the biennial appropriations act.

(4)(a) The statewide average payment rate for any state fiscal year under the nursing facility payment system, weighted by patient days, shall not exceed the annual statewide weighted average nursing facility payment rate identified for that fiscal year in the biennial appropriations act.

(b) If the department determines that the weighted average nursing facility payment rate calculated in accordance with this chapter is likely to exceed the weighted average nursing facility payment rate identified in the biennial appropriations act, then the department shall adjust all nursing facility payment rates proportional to the amount by which the weighted average rate allocations would otherwise exceed the budgeted rate amount. Any such adjustments <u>for the current fiscal year</u> shall only be made prospectively, not retrospectively, and shall be applied proportionately to each component rate allocation for each facility.

<u>(c) If any final order or final judgment, including a final order or final judgment resulting from an adjudicative proceeding or judicial review permitted by chapter 34.05 RCW, would result in an increase to a nursing facility's payment rate for a prior fiscal year or years, the department shall consider whether the increased rate for that facility would result in the statewide weighted average payment rate for all facilities for such fiscal year or years to be exceeded. If the increased rate would result in the statewide average payment rate for such year or years being exceeded, the department shall increase that nursing facility's payment rate to meet the final order or judgment only to the extent that it does not result in an increase to the statewide weighted average payment rate for all facilities.</u>

Sec. 2. RCW 74.46.431 and 2007 c 508 s 2 are each amended to read as follows:

(1) Effective July 1, 1999, nursing facility medicaid payment rate allocations shall be facility-specific and shall have seven components: Direct care, therapy care, support services, operations, property, financing allowance, and variable return. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) Component rate allocations in therapy care, support services, variable return, operations, property, and financing allowance for essential community providers as defined in this chapter shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. For all facilities other than essential community providers, effective July 1, 2001, component rate allocations in direct care, therapy care, support services, and variable return((~~, operations, property, and financing allowance~~)) shall ((~~continue to~~)) be based upon a minimum facility occupancy of eighty-five percent of licensed beds. For all facilities other than essential community providers, effective July 1, 2002, the component rate allocations in operations, property, and financing allowance shall be based upon a minimum facility occupancy of ninety percent of licensed beds, regardless of how many beds are set up or in use. For all facilities, effective July 1, 2006, the component rate allocation in direct care shall be based upon actual facility occupancy. The median cost limits used to set component rate allocations shall be based on the applicable minimum occupancy percentage. In determining each facility's therapy care component rate allocation under RCW 74.46.511, the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted therapy costs per adjusted resident day. In determining each facility's support services component rate allocation under RCW 74.46.515(3), the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted support services costs per adjusted resident day. In determining each facility's operations component rate allocation under RCW 74.46.521(3), the department shall apply the minimum facility occupancy adjustment before creating the array of facilities' adjusted general operations costs per adjusted resident day.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, direct care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2006, direct care component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, through June 30, 2007, direct care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, direct care component rate allocations. Effective July 1, 2009, the direct care component rate allocation shall be rebased biennially, and thereafter for each odd-numbered year beginning

July 1st, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Direct care component rate allocations based on 1996 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).

(c) Direct care component rate allocations based on 1999 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).

(d) Direct care component rate allocations based on 2003 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.506(5)(i).

(e) Direct care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, therapy care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2005, therapy care component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, through June 30, 2007, therapy care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, therapy care component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the therapy care component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Therapy care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2005, support services component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, through June 30, 2007, support services component

rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, support services component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the support services component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Support services component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2006, operations component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, through June 30, 2007, operations component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, operations component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the operations component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Operations component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose operations component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.521(4).

(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through June 30, 1999, a facility's property and return on investment component rates shall be rebased utilizing 1997 adjusted cost report data covering at least six months of data.

(9) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

(10) Medicaid contractors shall pay to all facility staff a minimum wage of the greater of the state minimum wage or the federal minimum wage.

(11) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed by this chapter, including but not limited to: The need to prorate inflation for partial-period cost report data, newly constructed facilities, existing facilities entering the medicaid program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicaid facilities following a change of

ownership of the nursing facility business, facilities banking beds or converting beds back into service, facilities temporarily reducing the number of set-up beds during a remodel, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

(12) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of RCW 74.46.421.

(13) Effective July 1, 2001, medicaid rates shall continue to be revised downward in all components, in accordance with department rules, for facilities converting banked beds to active service under chapter 70.38 RCW, by using the facility's increased licensed bed capacity to recalculate minimum occupancy for rate setting. However, for facilities other than essential community providers which bank beds under chapter 70.38 RCW, after May 25, 2001, medicaid rates shall be revised upward, in accordance with department rules, in direct care, therapy care, support services, and variable return components only, by using the facility's decreased licensed bed capacity to recalculate minimum occupancy for rate setting, but no upward revision shall be made to operations, property, or financing allowance component rates. The direct care component rate allocation shall be adjusted, without using the minimum occupancy assumption, for facilities that convert banked beds to active service, under chapter 70.38 RCW, beginning on July 1, 2006. Effective July 1, 2007, component rate allocations for direct care shall be based on actual patient days regardless of whether a facility has converted banked beds to active service.

(14) Facilities obtaining a certificate of need or a certificate of need exemption under chapter 70.38 RCW after June 30, 2001, must have a certificate of capital authorization in order for (a) the depreciation resulting from the capitalized addition to be included in calculation of the facility's property component rate allocation; and (b) the net invested funds associated with the capitalized addition to be included in calculation of the facility's financing allowance rate allocation.

Sec. 3. RCW 74.46.511 and 2007 c 508 s 4 are each amended to read as follows:

(1) The therapy care component rate allocation corresponds to the provision of medicaid one-on-one therapy provided by a qualified therapist as defined in this chapter, including therapy supplies and therapy consultation, for one day for one medicaid resident of a nursing facility. The therapy care component rate allocation for October 1, 1998, through June 30, 2001, shall be based on adjusted therapy costs and days from calendar year 1996. The therapy component rate allocation for July 1, 2001, through June 30, 2007, shall be based on adjusted therapy costs and days from calendar year 1999. Effective July 1, 2007, the therapy care component rate allocation shall be based on adjusted therapy costs and days as described in RCW 74.46.431(5). The therapy care component rate shall be adjusted for economic trends and conditions as specified in RCW 74.46.431(5), and shall be determined in accordance with this section. In determining each facility's therapy care component rate allocation, the department shall apply the applicable minimum facility occupancy adjustment

before creating the array of facilities' adjusted therapy care costs per adjusted resident day.

(2) In rebasing, as provided in RCW 74.46.431(5)(a), the department shall take from the cost reports of facilities the following reported information:

(a) Direct one-on-one therapy charges for all residents by payer including charges for supplies;

(b) The total units or modules of therapy care for all residents by type of therapy provided, for example, speech or physical. A unit or module of therapy care is considered to be fifteen minutes of one-on-one therapy provided by a qualified therapist or support personnel; and

(c) Therapy consulting expenses for all residents.

(3) The department shall determine for all residents the total cost per unit of therapy for each type of therapy by dividing the total adjusted one-on-one therapy expense for each type by the total units provided for that therapy type.

(4) The department shall divide medicaid nursing facilities in this state into two peer groups:

(a) Those facilities located within urban counties; and

(b) Those located within nonurban counties.

The department shall array the facilities in each peer group from highest to lowest based on their total cost per unit of therapy for each therapy type. The department shall determine the median total cost per unit of therapy for each therapy type and add ten percent of median total cost per unit of therapy. The cost per unit of therapy for each therapy type at a nursing facility shall be the lesser of its cost per unit of therapy for each therapy type or the median total cost per unit plus ten percent for each therapy type for its peer group.

(5) The department shall calculate each nursing facility's therapy care component rate allocation as follows:

(a) To determine the allowable total therapy cost for each therapy type, the allowable cost per unit of therapy for each type of therapy shall be multiplied by the total therapy units for each type of therapy;

(b) The medicaid allowable one-on-one therapy expense shall be calculated taking the allowable total therapy cost for each therapy type times the medicaid percent of total therapy charges for each therapy type;

(c) The medicaid allowable one-on-one therapy expense for each therapy type shall be divided by total adjusted medicaid days to arrive at the medicaid one-on-one therapy cost per patient day for each therapy type;

(d) The medicaid one-on-one therapy cost per patient day for each therapy type shall be multiplied by total adjusted patient days for all residents to calculate the total allowable one-on-one therapy expense. The lesser of the total allowable therapy consultant expense for the therapy type or a reasonable percentage of allowable therapy consultant expense for each therapy type, as established in rule by the department, shall be added to the total allowable one-on-one therapy expense to determine the allowable therapy cost for each therapy type;

(e) The allowable therapy cost for each therapy type shall be added together, the sum of which shall be the total allowable therapy expense for the nursing facility;

(f) The total allowable therapy expense will be divided by the greater of adjusted total patient days from the cost report on which the therapy expenses

were reported, or patient days at eighty-five percent occupancy of licensed beds. The outcome shall be the nursing facility's therapy care component rate allocation.

(6) The therapy care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) The therapy care component rate shall be suspended for medicaid residents in qualified nursing facilities designated by the department who are receiving therapy paid by the department outside the facility daily rate under RCW 74.46.508(2).

Sec. 4. RCW 74.46.515 and 2001 1st sp.s. c 8 s 12 are each amended to read as follows:

(1) The support services component rate allocation corresponds to the provision of food, food preparation, dietary, housekeeping, and laundry services for one resident for one day.

(2) Beginning October 1, 1998, the department shall determine each medicaid nursing facility's support services component rate allocation using cost report data specified by RCW 74.46.431(6).

(3) To determine each facility's support services component rate allocation, the department shall:

(a) Array facilities' adjusted support services costs per adjusted resident day, as determined by dividing each facility's total allowable support services costs by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy provided by RCW 74.46.431(2), for each facility from facilities' cost reports from the applicable report year, for facilities located within urban counties, and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's support services component rate at the lower of the facility's per resident day adjusted support services costs from the applicable cost report period or the adjusted median per resident day support services cost for that facility's peer group, either urban counties or nonurban counties, plus ten percent; and

(c) Adjust each facility's support services component rate for economic trends and conditions as provided in RCW 74.46.431(6).

(4) The support services component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

NEW SECTION. **Sec. 5.** The legislature clarifies the enactment of chapter 8, Laws of 2001 1st sp. sess. and intends this act be curative, remedial, and retrospectively applicable to July 1, 1998.

Passed by the Senate March 11, 2008.

Passed by the House March 12, 2008.

Approved by the Governor March 31, 2008.

Filed in Office of Secretary of State April 1, 2008.

CHAPTER 264

[Senate Bill 6638]

HERITAGE AND ARTS PROGRAMS—TAX REALLOCATION

AN ACT Relating to reallocation of existing lodging taxes for support of heritage and arts programs in a county with a population of one million or more; amending RCW 67.28.180, 67.28.1815, and 82.14.049; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that locally funded heritage and arts programs build vital communities and preserve community history and culture. It further finds that within existing revenue sources, local jurisdictions should have the capability to preserve these programs in the future.

The locally funded heritage and arts program in the state's most populated county was established in 1989 using a portion of hotel-motel tax revenues. This program was structured to provide for inflation and an expanding population of the county.

In 1997, the legislature acted to assure the future of the heritage and arts program by creating an endowment fund using these same local funds. This funding mechanism has proved to be inadequate and unless immediately modified will result in a seventy-five percent reduction of funds for the program.

This act will provide a stable and predictable flow of funds to the program, provide for inflation and an expanding population, and assure the future viability of the program within existing revenue flows.

Sec. 2. RCW 67.28.180 and 2007 c 189 s 1 are each amended to read as follows:

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW.

(2) Any levy authorized by this section shall be subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this section shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county shall be exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160: PROVIDED, That so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: (i) In any county with a population of one million or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the

bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; (ii) in any county with a population of one million or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.030; or (iii) in other counties, for county-owned facilities for agricultural promotion until January 1, 2009, and thereafter for any purpose authorized in this chapter.

A county is exempt under this subsection with respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013. If any county located east of the crest of the Cascade mountains has levied the tax authorized by this section and has, prior to June 26, 1975, pledged the tax revenue for payment of principal and interest on city revenue or general obligation bonds, the county is exempt under this subsection with respect to revenue or general obligation bonds issued after January 1, 2007, only if the bonds mature before January 1, 2021. Such a county may only use funds under this subsection (2)(b) for constructing or improving facilities authorized under this chapter, including county-owned facilities for agricultural promotion, and must perform an annual financial audit of organizations receiving funding on the use of the funds.

As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized by this subsection (2)(b) shall be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt.

(ii) ((~~If bonds have been issued under RCW 43.99N.020 and any necessary property transfers have been made under RCW 36.102.100,~~)) No city within a county with a population of one million or more may levy the tax authorized by this section ((~~before January 1, 2021~~)).

(iii) However, in the event that any city in a county described in (c)(i) or (ii) of this subsection (2)(((~~(c)~~))) has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160.

(3) Any levy authorized by this section by a county that has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general

obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160 shall be subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars shall only be used as follows:

(i) Seventy-five percent from January 1, 1992, through December 31, 2000, and seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, heritage and preservation programs, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) shall be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) Twenty-five percent from January 1, 1992, through December 31, 2000, and thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(ii) shall be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, in a county with a population of one million or more, all revenues under this section shall be used to retire the debt on the stadium, ((~~or deposited in the stadium and exhibition center account under RCW 43.99N.060 after~~)) until the debt on the stadium is retired. On and after the date the debt on the stadium is retired, and through December 31, 2015, all revenues under this section in a county of a million or more shall be deposited in the special account under (f) of this subsection.

(c) From January 1, 2016, through December 31, 2020, in a county with a population of one million or more, all revenues under this section shall be deposited in the stadium and exhibition center account under RCW 43.99N.060.

(d) On and after January 1, 2021, at least thirty-seven and one-half percent of revenues under this section in a county of a million or more shall be deposited in the special account under (f) of this subsection.

(e) At least seventy percent of moneys spent under (a)(i) of this subsection for the period January 1, 1992, through December 31, 2000, shall be used only for the purchase, design, construction, and remodeling of performing arts, visual arts, heritage, and cultural facilities, and for the purchase of fixed assets that will benefit art, heritage, and cultural organizations. For purposes of this subsection, fixed assets are tangible objects such as machinery and other equipment intended to be held or used for ten years or more. Moneys received under this subsection (3)((~~(d)~~)) (e) may be used for payment of principal and interest on bonds issued for capital projects. Qualifying organizations receiving moneys under this subsection (3)((~~(d)~~)) (e) must be financially stable and have at least the following:

(i) A legally constituted and working board of directors;

(ii) A record of artistic, heritage, or cultural accomplishments;

(iii) Been in existence and operating for at least two years;

(iv) Demonstrated ability to maintain net current liabilities at less than thirty percent of general operating expenses;

(v) Demonstrated ability to sustain operational capacity subsequent to completion of projects or purchase of machinery and equipment; and

(vi) Evidence that there has been independent financial review of the organization.

(((~~e~~))) (f) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection for the period January 1, 2001, through ((~~December 31, 2012,~~)) the effective date of this section shall be deposited in ((~~an~~)) a special account ((~~and shall be used to establish an endowment. Principal in the account shall remain permanent and irreducible~~)). The ((~~earnings from investments of balances in the~~)) account may only be used for the purposes of (a)(i) of this subsection.

(((~~f~~))) (g) School districts and schools shall not receive revenues distributed pursuant to (a)(i) of this subsection.

(((~~g~~))) (h) Moneys distributed to art museums, cultural museums, heritage museums, heritage and preservation programs, the arts, and the performing arts, and moneys distributed for tourism promotion shall be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.

(((~~h~~))) (i) As used in this section, "tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a class AA county shall be allocated to nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations shall use moneys from the taxes to promote events in all parts of the class AA county.

(((~~i~~))) (j) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.

(((~~j~~))) (k) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.

(((~~k~~))) (l) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)(((~~k~~))) (l) does not apply in respect to a public stadium under chapter 36.102 RCW transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

(((~~l~~))) (m) The county shall not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(((~~l~~))) (m) does not apply to contracts in existence on April 1, 1986.

If a court of competent jurisdiction declares any provision of this subsection (3) invalid, then that invalid provision shall be null and void and the remainder of this section is not affected. Section 2, chapter . . ., Laws of 2008 (section 2 of this act), expires July 1, 2009.

Sec. 3. RCW 67.28.1815 and 1997 c 452 s 4 are each amended to read as follows:

Except as provided in RCW 67.28.180, all revenue from taxes imposed under this chapter shall be credited to a special fund in the treasury of the municipality imposing such tax and used solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities. Municipalities may, under chapter 39.34 RCW, agree to the utilization of revenue from taxes imposed under this chapter for the purposes of funding a multijurisdictional tourism-related facility.

Sec. 4. RCW 82.14.049 and 1997 c 220 s 502 are each amended to read as follows:

The legislative authority of any county may impose a sales and use tax, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the county that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall be one percent of the selling price in the case of a sales tax or rental value of the vehicle in the case of a use tax. Proceeds of the tax shall not be used to subsidize any professional sports team and shall be used solely for the following purposes:

(1) Acquiring, constructing, maintaining, or operating public sports stadium facilities;

(2) Engineering, planning, financial, legal, or professional services incidental to public sports stadium facilities;

(3) Youth or amateur sport activities or facilities; or

(4) Debt or refinancing debt issued for the purposes of subsection (1) of this section.

At least seventy-five percent of the tax imposed under this section shall be used for the purposes of subsections (1), (2), and (4) of this section. In a county of one million or more, at least seventy-five percent of the tax imposed under this section shall be used to retire the debt on the stadium under RCW 67.28.180(2)(b)(ii), until that debt is fully retired.

NEW SECTION. **Sec. 5.** This act takes effect July 1, 2008.

Passed by the Senate March 13, 2008.
Passed by the House March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 265

[Engrossed Substitute Senate Bill 6760]

DEVELOPMENTAL DISABILITIES COMMUNITY TRUST ACCOUNT

AN ACT Relating to the developmental disabilities community trust account; and amending RCW 71A.20.170.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 71A.20.170 and 2005 c 353 s 1 are each amended to read as follows:

(1) The developmental disabilities community trust account is created in the state treasury. All net proceeds from the use of excess property identified in the 2002 joint legislative audit and review committee capital study or other studies of the division of developmental disabilities residential habilitation centers at Lakeland Village, Yakima Valley school, Francis Haddon Morgan Center, and Rainier school that would not impact current residential habilitation center operations must be deposited into the account. ((~~Income~~))

(2) Proceeds may come from the lease of the land, conservation easements, sale of timber, or other activities short of sale of the property.

(3) "Excess property" includes that portion of the property at Rainier school previously under the cognizance and control of Washington State University for use as a dairy/forage research facility. ((~~"Proceeds" include the net receipts from the use of all or a portion of the properties.~~))

(4) Only investment income from the principal of the proceeds deposited into the trust account may be spent from the account. For purposes of this section, "investment income" includes lease payments, rent payments, or other periodic payments deposited into the trust account. For purposes of this section, "principal" is the actual excess land from which proceeds are assigned to the trust account.

(5) Moneys in the account may be spent only after appropriation. Expenditures from the account shall be used exclusively to provide family support and/or employment/day services to eligible persons with developmental disabilities who can be served by community-based developmental disability services. It is the intent of the legislature that the account should not be used to replace, supplant, or reduce existing appropriations.

((~~(2) The department shall report on its efforts and strategies to provide income to the developmental disabilities community trust account from the excess property identified in subsection (1) of this section from the lease of the property, sale of timber, or other activity short of sale of the property. The department shall report by June 30, 2006.~~

~~(3)~~)) (6) The account shall be known as the Dan Thompson memorial developmental disabilities community trust account.

Passed by the Senate March 12, 2008.
Passed by the House March 7, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 266

[Engrossed Substitute Senate Bill 6776]

WHISTLEBLOWER PROTECTION—STATE EMPLOYEES

AN ACT Relating to state employee whistleblower protection; amending RCW 42.40.020, 42.40.030, 42.40.040, 42.40.070, 42.40.050, and 42.40.910; reenacting and amending RCW 49.60.230 and 49.60.250; creating new sections; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds and declares that government exists to conduct the people's business, and the people remaining

informed about the actions of government contributes to the oversight of how the people's business is conducted. The legislature further finds that many public servants who expose actions of their government that are contrary to the law or public interest face the potential loss of their careers and livelihoods.

It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these disclosures. It is also the policy of the legislature that employees should be encouraged to identify rules warranting review or provide information to the rules review committee, and it is the intent of the legislature to protect the rights of these employees.

This act shall be broadly construed in order to effectuate the purpose of this act.

Sec. 2. RCW 42.40.020 and 1999 c 361 s 1 are each amended to read as follows:

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Auditor" means the office of the state auditor.

(2) "Employee" means any individual employed or holding office in any department or agency of state government.

(3) "Good faith" means the individual providing the information or report of improper governmental activity has a reasonable basis in fact for reporting or providing the ((~~communication~~)) information. ((~~"Good faith" is lacking when the employee knows or reasonably ought to know that the report is malicious, false, or frivolous.~~)) An individual who knowingly provides or reports, or who reasonably ought to know he or she is providing or reporting, malicious, false, or frivolous information, or information that is provided with reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.

(4) "Gross mismanagement" means the exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.

(5) "Gross waste of funds" means to spend or use funds or to allow funds to be used without valuable result in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.

((~~(5)~~)) (6)(a) "Improper governmental action" means any action by an employee undertaken in the performance of the employee's official duties:

(i) Which is ((~~[a]~~)) a gross waste of public funds or resources as defined in this section;

(ii) Which is in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature; ((~~or~~))

(iii) Which is of substantial and specific danger to the public health or safety;

(iv) Which is gross mismanagement; or

(v) Which prevents the dissemination of scientific opinion or alters technical findings without scientifically valid justification, unless state law or a common law privilege prohibits disclosure. This provision is not meant to preclude the discretion of agency management to adopt a particular scientific

opinion or technical finding from among differing opinions or technical findings to the exclusion of other scientific opinions or technical findings. Nothing in this subsection prevents or impairs a state agency's or public official's ability to manage its public resources or its employees in the performance of their official job duties. This subsection does not apply to de minimis, technical disagreements that are not relevant for otherwise improper governmental activity. Nothing in this provision requires the auditor to contract or consult with external experts regarding the scientific validity, invalidity, or justification of a finding or opinion.

(b) "Improper governmental action" does not include personnel actions, for which other remedies exist, including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor agreement violations, reprimands, claims of discriminatory treatment, or any action which may be taken under chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030.

(((~~(6)~~))) (7) "Public official" means the attorney general's designee or designees; the director, or equivalent thereof in the agency where the employee works; an appropriate number of individuals designated to receive whistleblower reports by the head of each agency; or the executive ethics board.

(8) "Substantial and specific danger" means a risk of serious injury, illness, peril, or loss, to which the exposure of the public is a gross deviation from the standard of care or competence which a reasonable person would observe in the same situation.

(((~~(7)~~))) (9) "Use of official authority or influence" includes threatening, taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment including but not limited to duties and office location, reassignment, reinstatement, restoration, reemployment, performance evaluation, determining any material changes in pay, provision of training or benefits, tolerance of a hostile work environment, or any adverse action under chapter 41.06 RCW, or other disciplinary action.

(((~~(8)~~))) (10)(a) "Whistleblower" means:

(i) An employee who in good faith reports alleged improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, initiating an investigation by the auditor under RCW 42.40.040; or

(ii) An employee who is perceived by the employer as reporting, whether they did or not, alleged improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, initiating an investigation by the auditor under RCW 42.40.040.

(b) For purposes of the provisions of this chapter and chapter 49.60 RCW relating to reprisals and retaliatory action, the term "whistleblower" also means:

(((~~(a)~~))) (i) An employee who in good faith provides information to the auditor or other public official, as defined in subsection (7) of this section, in connection with an investigation under RCW 42.40.040 and an employee who is believed to have reported asserted improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, or to have provided information to the auditor or other public official, as defined in

subsection (7) of this section, in connection with an investigation under RCW 42.40.040 but who, in fact, has not reported such action or provided such information; or

(((~~(b)~~)) (ii) An employee who in good faith identifies rules warranting review or provides information to the rules review committee, and an employee who is believed to have identified rules warranting review or provided information to the rules review committee but who, in fact, has not done so.

Sec. 3. RCW 42.40.030 and 1995 c 403 s 510 are each amended to read as follows:

(1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to: (a) Disclose to the auditor (or representative thereof) or other public official, as defined in RCW 42.40.020, information concerning improper governmental action; or (b) identify rules warranting review or provide information to the rules review committee.

(2) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law, except to the extent that information is necessary to substantiate the whistleblower complaint, in which case information may be disclosed to the auditor or public official, as defined in RCW 42.40.020, by the whistleblower for the limited purpose of providing information related to the complaint. Any information provided to the auditor or public official under the authority of this subsection may not be further disclosed.

Sec. 4. RCW 42.40.040 and 1999 c 361 s 3 are each amended to read as follows:

(1)(a) In order to be investigated, an assertion of improper governmental action must be provided to the auditor or other public official within one year after the occurrence of the asserted improper governmental action. The public official, as defined in RCW 42.40.020, receiving an assertion of improper governmental action must report the assertion to the auditor within fifteen calendar days of receipt of the assertion. The auditor retains sole authority to investigate an assertion of improper governmental action including those made to a public official. A failure of the public official to report the assertion to the auditor within fifteen days does not impair the rights of the whistleblower.

(b) Except as provided under RCW 42.40.910 for legislative and judicial branches of government, the auditor has the authority to determine whether to investigate any assertions received. In determining whether to conduct either a preliminary or further investigation, the auditor shall consider factors including, but not limited to: The nature and quality of evidence and the existence of relevant laws and rules; whether the action was isolated or systematic; the history of previous assertions regarding the same subject or subjects or subject matter; whether other avenues are available for addressing the matter; whether the matter has already been investigated or is in litigation; the seriousness or significance of the asserted improper governmental action; and the cost and benefit of the investigation. The auditor has the sole discretion to determine the priority and weight given to these and other relevant factors and to decide

whether a matter is to be investigated. The auditor shall document the factors considered and the analysis applied.

(c) The auditor also has the authority to investigate assertions of improper governmental actions as part of an audit conducted under chapter 43.09 RCW. The auditor shall document the reasons for handling the matter as part of such an audit.

(2) Subject to subsection (5)(c) of this section, the identity or identifying characteristics of a whistleblower is confidential at all times unless the whistleblower consents to disclosure by written waiver or by acknowledging his or her identity in a claim against the state for retaliation. In addition, the identity or identifying characteristics of any person who in good faith provides information in an investigation under this section is confidential at all times, unless the person consents to disclosure by written waiver or by acknowledging his or her identity as a witness who provides information in an investigation.

(3) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, within ((~~five~~)) fifteen working days of receipt of the information, mail written acknowledgement to the whistleblower at the address provided stating whether a preliminary investigation will be conducted. For a period not to exceed ((~~thirty~~)) sixty working days from receipt of the assertion, the auditor shall conduct such preliminary investigation of the matter as the auditor deems appropriate.

(4) In addition to the authority under subsection (3) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(5)(a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower summarizing where the allegations are deficient, and provide a reasonable opportunity to reply. Such notification may be by electronic means.

(b) The written notification shall contain a summary of the information received and of the results of the preliminary investigation with regard to each assertion of improper governmental action.

(c) In any case to which this section applies, the identity or identifying characteristics of the whistleblower shall be kept confidential unless the auditor determines that the information has been provided other than in good faith. If the auditor makes such a determination, the auditor shall provide reasonable advance notice to the employee.

(d) With the agency's consent, the auditor may forward the assertions to an appropriate agency to investigate and report back to the auditor no later than sixty working days after the assertions are received from the auditor. The auditor is entitled to all investigative records resulting from such a referral. All procedural and confidentiality provisions of this chapter apply to investigations conducted under this subsection. The auditor shall document the reasons the assertions were referred.

(6) During the preliminary investigation, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts and laws known at the time and the procedure for the subject or subjects of the investigation and the agency head to respond to the assertions and

information obtained during the investigation. This notification does not limit the auditor from considering additional facts or laws which become known during further investigation.

(((~~(7)~~)))(a) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower, the subject or subjects of the investigation, and the agency head and either conduct a further investigation or issue a report under subsection (((~~(10)~~))) (9) of this section.

(b) If the preliminary investigation resulted from an anonymous assertion, a decision to conduct further investigation shall be subject to review by a three-person panel convened as necessary by the auditor prior to the commencement of any additional investigation. The panel shall include a state auditor representative knowledgeable of the subject agency operations, a citizen volunteer, and a representative of the attorney general's office. This group shall be briefed on the preliminary investigation and shall recommend whether the auditor should proceed with further investigation.

(c) If further investigation is to occur, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts known at the time and the procedure to be used by the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation.

(((~~(8)~~))) (7) Within sixty working days after the preliminary investigation period in subsection (3) of this section, the auditor shall complete the investigation and report its findings to the whistleblower unless written justification for the delay is furnished to the whistleblower, agency head, and subject or subjects of the investigation. In all such cases, the report of the auditor's investigation and findings shall be sent to the whistleblower within one year after the information was filed under subsection (3) of this section.

(((~~(9)~~))) (8)(a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(c) Agencies shall cooperate fully in the investigation and shall take appropriate action to preclude the destruction of any evidence during the course of the investigation.

(d) During the investigation the auditor shall interview each subject of the investigation. If it is determined there is reasonable cause to believe improper

governmental action has occurred, the subject or subjects and the agency head shall be given fifteen working days to respond to the assertions prior to the issuance of the final report.

((~~(10)~~)) (9)(a) If the auditor determines there is reasonable cause to believe an employee has engaged in improper governmental action, the auditor shall report, to the extent allowable under existing public disclosure laws, the nature and details of the activity to:

(i) The subject or subjects of the investigation and the head of the employing agency; ((~~and~~))

(ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate;

(iii) Electronically to the governor, secretary of the senate, and chief clerk of the house of representatives; and

(iv) Except for information whose release is specifically prohibited by statute or executive order, the public through the public file of whistleblower reports maintained by the auditor.

(b) The auditor has no enforcement power except that in any case in which the auditor submits an investigative report containing reasonable cause determinations to the agency, the agency shall send its plan for resolution to the auditor within fifteen working days of having received the report. The agency is encouraged to consult with the subject or subjects of the investigation in establishing the resolution plan. The auditor may require periodic reports of agency action until all resolution has occurred. If the auditor determines that appropriate action has not been taken, the auditor shall report the determination to the governor and to the legislature and may include this determination in the agency audit under chapter 43.09 RCW.

((~~(11)~~)) (10) Once the auditor concludes that appropriate action has been taken to resolve the matter, the auditor shall so notify the whistleblower, the agency head, and the subject or subjects of the investigation. If the resolution takes more than one year, the auditor shall provide annual notification of its status to the whistleblower, agency head, and subject or subjects of the investigation.

((~~(12)~~)) (11) Failure to cooperate with such audit or investigation, or retaliation against anyone who assists the auditor by engaging in activity protected by this chapter shall be reported as a separate finding with recommendations for corrective action in the associated report whenever it occurs.

(12) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter.

Sec. 5. RCW 42.40.070 and 1989 c 284 s 5 are each amended to read as follows:

A written summary of this chapter and procedures for reporting improper governmental actions established by the auditor's office shall be made available by each department or agency of state government to each employee upon entering public employment. Such notices may be in agency internal newsletters, included with paychecks or stubs, sent via electronic mail to all employees, or sent by other means that are cost-effective and reach all employees of the government level, division, or subdivision. Employees shall be notified by each department or agency of state government each year of the

procedures and protections under this chapter. The annual notices shall include a list of public officials, as defined in RCW 42.40.020, authorized to receive whistleblower reports. The list of public officials authorized to receive whistleblower reports shall also be prominently displayed in all agency offices.

Sec. 6. RCW 42.40.050 and 1999 c 283 s 1 are each amended to read as follows:

(1)(a) Any person who is a whistleblower, as defined in RCW 42.40.020, and who has been subjected to workplace reprisal or retaliatory action is presumed to have established a cause of action for the remedies provided under chapter 49.60 RCW.

(b) For the purpose of this section, "reprisal or retaliatory action" means, but is not limited to, any of the following:

(((~~(a)~~))) (i) Denial of adequate staff to perform duties;

(((~~(b)~~))) (ii) Frequent staff changes;

(((~~(c)~~))) (iii) Frequent and undesirable office changes;

(((~~(d)~~))) (iv) Refusal to assign meaningful work;

(((~~(e)~~))) (v) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;

(((~~(f)~~))) (vi) Demotion;

(((~~(g)~~))) (vii) Reduction in pay;

(((~~(h)~~))) (viii) Denial of promotion;

(((~~(i)~~))) (ix) Suspension;

(((~~(j)~~))) (x) Dismissal;

(((~~(k)~~))) (xi) Denial of employment;

(((~~(l)~~))) (xii) A supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower; ((~~and~~

~~(m)~~))) (xiii) A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish;

(xiv) Issuance of or attempt to enforce any nondisclosure policy or agreement in a manner inconsistent with prior practice; or

(xv) Any other action that is inconsistent compared to actions taken before the employee engaged in conduct protected by this chapter, or compared to other employees who have not engaged in conduct protected by this chapter.

(2) The agency presumed to have taken retaliatory action under subsection (1) of this section may rebut that presumption by proving by a preponderance of the evidence that there have been a series of documented personnel problems or a single, egregious event, or that the agency action or actions were justified by reasons unrelated to the employee's status as a whistleblower and that improper motive was not a substantial factor.

(3) Nothing in this section prohibits an agency from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. However, the agency also shall implement any order under chapter 49.60 RCW (other than an order of suspension if the agency has terminated the retaliator).

Sec. 7. RCW 49.60.230 and 1993 c 510 s 21 and 1993 c 69 s 11 are each reenacted and amended to read as follows:

(1) Who may file a complaint:

(a) Any person claiming to be aggrieved by an alleged unfair practice may, personally or by his or her attorney, make, sign, and file with the commission a complaint in writing under oath or by declaration. The complaint shall state the name of the person alleged to have committed the unfair practice and the particulars thereof, and contain such other information as may be required by the commission.

(b) Whenever it has reason to believe that any person has been engaged or is engaging in an unfair practice, the commission may issue a complaint.

(c) Any employer or principal whose employees, or agents, or any of them, refuse or threaten to refuse to comply with the provisions of this chapter may file with the commission a written complaint under oath or by declaration asking for assistance by conciliation or other remedial action.

(2) Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination except that complaints alleging an unfair practice in a real estate transaction pursuant to RCW 49.60.222 through 49.60.225 must be so filed within one year after the alleged unfair practice in a real estate transaction has occurred or terminated and a complaint alleging whistleblower retaliation must be filed within two years.

Sec. 8. RCW 49.60.250 and 1993 c 510 s 23 and 1993 c 69 s 14 are each reenacted and amended to read as follows:

(1) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairperson of the commission. The chairperson of the commission shall thereupon request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the administrative law judge, at a time and place to be specified in such notice.

(2) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall the member or employee participate in the deliberations of the administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

(4) The administrative law judge conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

(5) If, upon all the evidence, the administrative law judge finds that the respondent has engaged in any unfair practice, the administrative law judge shall state findings of fact and shall issue and file with the commission and cause to be

served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the administrative law judge, will effectuate the purposes of this chapter, including action that could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed ((~~ten~~)) twenty thousand dollars, and including a requirement for report of the matter on compliance. Relief available for violations of RCW 49.60.222 through 49.60.224 shall be limited to the relief specified in RCW 49.60.225.

(6) If a determination is made that retaliatory action, as defined in RCW 42.40.050, has been taken against a whistleblower, as defined in RCW 42.40.020, the administrative law judge may, in addition to any other remedy, require restoration of benefits, back pay, and any increases in compensation that would have occurred, with interest; impose a civil penalty upon the retaliator of up to ((~~three~~)) five thousand dollars; and issue an order to the state employer to suspend the retaliator for up to thirty days without pay. At a minimum, the administrative law judge shall require that a letter of reprimand be placed in the retaliator's personnel file. No agency shall issue any nondisclosure order or policy, execute any nondisclosure agreement, or spend any funds requiring information that is public under the public records act, chapter 42.56 RCW, be kept confidential; except that nothing in this section shall affect any state or federal law requiring information be kept confidential. All penalties recovered shall be paid into the state treasury and credited to the general fund.

(7) The final order of the administrative law judge shall include a notice to the parties of the right to obtain judicial review of the order by appeal in accordance with the provisions of RCW 34.05.510 through 34.05.598, and that such appeal must be served and filed within thirty days after the service of the order on the parties.

(8) If, upon all the evidence, the administrative law judge finds that the respondent has not engaged in any alleged unfair practice, the administrative law judge shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(9) An order dismissing a complaint may include an award of reasonable attorneys' fees in favor of the respondent if the administrative law judge concludes that the complaint was frivolous, unreasonable, or groundless.

(10) The commission shall establish rules of practice to govern, expedite, and effectuate the foregoing procedure.

(11) Instead of filing with the commission, a complainant may pursue arbitration conducted by the American arbitration association or another arbitrator mutually agreed by the parties, with the cost of arbitration shared equally by the complainant and the respondent.

Sec. 9. RCW 42.40.910 and 1999 c 361 s 7 are each amended to read as follows:

This act and chapter 361, Laws of 1999 ((~~does~~)) do not affect the jurisdiction of the legislative ethics board, the executive ethics board, or the commission on judicial conduct, as set forth in chapter 42.52 RCW. The senate, the house of representatives, and the supreme court shall adopt policies

regarding the applicability of chapter 42.40 RCW to the senate, house of representatives, and judicial branch.

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

NEW SECTION. **Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 12, 2008.
Passed by the House March 11, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 267

[Engrossed Substitute Senate Bill 6792]

DEPENDENCY MATTERS

AN ACT Relating to dependency matters; amending RCW 13.34.215, 13.34.065, 13.34.136, 26.44.063, 74.13.031, 46.20.035, 41.06.142, 74.15.240, and 13.34.105; reenacting and amending RCW 71.24.035; adding a new section to chapter 74.13 RCW; adding a new section to chapter 74.15 RCW; creating new sections; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.34.215 and 2007 c 413 s 1 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination((~~, or if the final order was appealed, within three years of exhaustion of any right to appeal the order terminating parental rights~~)); and

(d) ((~~Absent good cause,~~)) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(3) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(4) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, ((~~it appears~~)) the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(5) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department, the child's attorney, and the child. The court shall also order the department to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(6) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(7) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(8)(a) If the court conditionally grants the petition under subsection (6) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(9) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(10) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(((~~(10)~~))) (11) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(((~~(11)~~))) (12) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(((~~(12)~~))) (13) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(14) The state, the department, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, or its employees concerning the original termination.

Sec. 2. RCW 13.34.065 and 2007 c 413 s 5 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The department of social and health services shall submit a recommendation to the court as to the further need for shelter care in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive ((~~parent~~)) household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. ((~~However,~~)) The court may not order a parent to undergo

examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, ((~~and the child was initially placed with a relative pursuant to RCW 13.34.060(1),~~)) the court shall order ((~~continued~~)) placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent,

guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 3. RCW 13.34.136 and 2007 c 413 s 7 are each amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the supervising agency's proposed permanency plan must be provided to the

supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130((~~(4)~~)) (5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the agency will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The agency shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the

community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130((~~(4)~~)) (5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date((~~, preferably before~~)). If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(3).

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

Sec. 4. RCW 26.44.063 and 2000 c 119 s 12 are each amended to read as follows:

(1) It is the intent of the legislature to minimize trauma to a child involved in an allegation of sexual or physical abuse. The legislature declares that removing the child from the home or the care of a parent, guardian, or legal custodian often has the effect of further traumatizing the child. It is, therefore, the legislature's intent that the alleged ((~~offender~~)) abuser, rather than the child, shall be removed or restrained from the ((~~home~~)) child's residence and that this should be done at

the earliest possible point of intervention in accordance with RCW 10.31.100, ((~~13.34.130~~)) chapter 13.34 RCW, this section, and RCW 26.44.130.

(2) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

(a) Molesting or disturbing the peace of the alleged victim;

(b) Entering the family home of the alleged victim except as specifically authorized by the court;

(c) Having any contact with the alleged victim, except as specifically authorized by the court;

(d) Knowingly coming within, or knowingly remaining within, a specified distance of a specified location.

(3) If the caretaker is willing, and does comply with the duties prescribed in subsection (8) of this section, uncertainty by the caretaker that the alleged abuser has in fact abused the alleged victim shall not, alone, be a basis to remove the alleged victim from the caretaker, nor shall it be considered neglect.

(4) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the child from further abuse or emotional trauma pending final resolution of the abuse allegations.

((~~(4)~~)) (5) The court shall issue a temporary restraining order prohibiting a person from entering the family home if the court finds that the order would eliminate the need for an out-of-home placement to protect the child's right to nurturance, health, and safety and is sufficient to protect the child from further sexual or physical abuse or coercion.

((~~(5)~~)) (6) The court may issue a temporary restraining order without requiring notice to the party to be restrained or other parties only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

((~~(6)~~)) (7) A temporary restraining order or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding; and

(b) May be revoked or modified.

((~~(7)~~)) (8) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of social and health services of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

((~~(8)~~)) (9) Willful violation of a court order entered under this section is a misdemeanor. A written order shall contain the court's directive and shall bear the legend: "Violation of this order with actual notice of its terms is a criminal offense under chapter 26.44 RCW, is also subject to contempt proceedings, and will subject a violator to arrest."

((~~(9)~~)) (10) If a restraining order issued under this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

Sec. 5. RCW 71.24.035 and 2007 c 414 s 2, 2007 c 410 s 8, and 2007 c 375 s 12 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are ((~~defendants~~)) respondents in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in persons with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are ((~~defendants~~)) respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards and RCW 71.24.320((~~,~~)) and 71.24.330((~~, and 71.24.3201~~)), which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards; and

(p) Certify clubhouses that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

(15) The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 6. RCW 74.13.031 and 2007 c 413 s 10 are each amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency((~~: PROVIDED, That~~)). An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) ((~~Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature~~)) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of-home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

(a) The department shall conduct the monthly visits with children and caregivers required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.

(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child

with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

NEW SECTION. **Sec. 7.** A new section is added to chapter 74.13 RCW to read as follows:

(1) For the purpose of assisting foster youth in obtaining a Washington state identicard, submission of the information and materials listed in this subsection from the department to the department of licensing is sufficient proof of identity and residency and shall serve as the necessary authorization for the youth to apply for and obtain a Washington state identicard:

(a) A written signed statement prepared on department letterhead, verifying the following:

(i) The youth is a minor who resides in Washington;

(ii) Pursuant to a court order, the youth is dependent and the department or other supervising agency is the legal custodian of the youth under chapter 13.34 RCW or under the interstate compact on the placement of children;

(iii) The youth's full name and date of birth;

(iv) The youth's social security number, if available;

(v) A brief physical description of the youth;

(vi) The appropriate address to be listed on the youth's identicard; and

(vii) Contact information for the appropriate person at the department.

(b) A photograph of the youth, which may be digitized and integrated into the statement.

(2) The department may provide the statement and the photograph via any of the following methods, whichever is most efficient or convenient:

(a) Delivered via first-class mail or electronically to the headquarters office of the department of licensing; or

(b) Hand-delivered to a local office of the department of licensing by a department case worker.

(3) A copy of the statement shall be provided to the youth who shall provide the copy to the department of licensing when making an in-person application for a Washington state identicard.

(4) To the extent other identifying information is readily available, the department shall include the additional information with the submission of information required under subsection (1) of this section.

Sec. 8. RCW 46.20.035 and 2004 c 249 s 2 are each amended to read as follows:

The department may not issue an identicard or a Washington state driver's license that is valid for identification purposes unless the applicant meets the identification requirements of subsection (1), (2), or (3) of this section.

(1) A driver's license or identicard applicant must provide the department with at least one of the following pieces of valid identifying documentation that contains the signature and a photograph of the applicant:

(a) A valid or recently expired driver's license or instruction permit that includes the date of birth of the applicant;

(b) A Washington state identicard or an identification card issued by another state;

(c) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members or employees of the government agency;

(d) A military identification card;

(e) A United States passport; or

(f) An Immigration and Naturalization Service form.

(2) An applicant who is a minor may establish identity by providing an affidavit of the applicant's parent or guardian. The parent or guardian must accompany the minor and display or provide:

(a) At least one piece of documentation in subsection (1) of this section establishing the identity of the parent or guardian; and

(b) Additional documentation establishing the relationship between the parent or guardian and the applicant.

(3) A person unable to provide identifying documentation as specified in subsection (1) or (2) of this section may request that the department review other available documentation in order to ascertain identity. The department may waive the requirement if it finds that other documentation clearly establishes the identity of the applicant. Notwithstanding the requirements in subsection (2) of this section, the department shall issue an identicard to an applicant for whom it receives documentation pursuant to section 7 of this act.

(4) An identicard or a driver's license that includes a photograph that has been renewed by mail or by electronic commerce is valid for identification

purposes if the applicant met the identification requirements of subsection (1), (2), or (3) of this section at the time of previous issuance.

(5) The form of an applicant's name, as established under this section, is the person's name of record for the purposes of this chapter.

(6) If the applicant is unable to prove his or her identity under this section, the department shall plainly label the license "not valid for identification purposes."

Sec. 9. RCW 41.06.142 and 2002 c 354 s 208 are each amended to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to July 1, 2005, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1) ((~~and~~)), (4) ((~~through (6)~~)), and (5) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more

employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The director of personnel, with the advice and assistance of the department of general administration, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of general administration, with the advice and assistance of the department of personnel, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of general administration to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) ((~~The joint legislative audit and review committee shall conduct a performance audit of the implementation of this section, including the adequacy of the appeals process in subsection (4)(d) of this section, and report to the legislature by January 1, 2007, on the results of the audit.~~)) The requirements of this section do not apply to RCW 74.13.031(5).

NEW SECTION. **Sec. 10.** A new section is added to chapter 74.15 RCW to read as follows:

To be eligible for placement in a HOPE center, a minor must be either a street youth, as that term is defined in this chapter, or a youth who, without placement in a HOPE center, will continue to participate in increasingly risky

behavior. Youth may also self-refer to a HOPE center. Payment for a HOPE center bed is not contingent upon prior approval by the department.

Sec. 11. RCW 74.15.240 and 1999 c 267 s 14 are each amended to read as follows:

To be eligible for placement in a responsible living skills program, the minor must be dependent under chapter 13.34 RCW and must have lived in a HOPE center or in a secure crisis residential center. However, if the minor's caseworker determines that placement in a responsible living skills program would be the most appropriate placement given the minor's current circumstances, prior residence in a HOPE center or secure crisis residential center before placement in a responsible living program is not required. Responsible living skills centers are intended as a placement alternative for dependent youth that the department chooses for the youth because no other services or alternative placements have been successful. Responsible living skills centers are not for dependent youth whose permanency plan includes return to home or family reunification.

NEW SECTION. **Sec. 12.** (1) The department of social and health services, in collaboration with the administrative office of the courts, shall implement a pilot program in the Thurston, Spokane, King, and Benton-Franklin counties as follows:

(a) A child who is age twelve years or older and who is the subject of a dependency proceeding under chapter 13.34 RCW shall have the following rights with respect to all hearings conducted in the pilot county on his or her behalf:

(i) The right to receive notice of the proceedings and hearings;

(ii) The right to be present at hearings; and

(iii) The right to be heard personally.

(b) At the request of the child, the child's guardian ad litem or attorney, or upon the court's own motion, the court may conduct an interview with the child in chambers to determine the child's wishes regarding the issues pending before the court. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

(c) A child's right to attend a hearing conducted on his or her behalf and to be heard by the court cannot be denied or limited by the court, unless the court makes a specific written finding that such denial or limitation is in the best interests of the child and necessary for the health, safety, and welfare of the child.

(d) Prior to each hearing, the child's guardian ad litem or attorney shall determine if the child wishes to be present and to be heard at the hearing. If the child wishes to attend the hearing, the guardian ad litem or attorney shall coordinate with the child's caregiver and the department or supervising agency to make arrangements for the child to attend the hearing. Nothing in this subsection shall be construed to create a duty on the department or supervising agency to transport the child.

(2) The pilot shall operate until June 30, 2010. The department of social and health services and the administrative office of the courts shall brief the legislature regarding the pilot by January 31, 2009, and shall provide a final

report regarding the effectiveness of the program by December 1, 2010. To the extent funding is available, the department and the administrative office of the courts shall collaborate with other appropriate entities to compile pertinent information regarding the pilot program, including the comments of youth, court personnel, attorneys, and guardians ad litem in the pilot counties.

Sec. 13. RCW 13.34.105 and 2000 c 124 s 4 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

(((~~(e)~~))) (d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(((~~(d)~~))) (e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties; and

(((~~(e)~~))) (f) To represent and be an advocate for the best interests of the child.

(2) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100(((~~(5)~~))) (7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

(5) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

NEW SECTION. **Sec. 14.** Section 6 of this act takes effect December 31, 2008.

NEW SECTION. **Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 13, 2008.
Passed by the House March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 268

[Substitute Senate Bill 6806]

ANAEROBIC DIGESTER PRODUCTION—TAX EXEMPTIONS

AN ACT Relating to property and leasehold excise tax exemptions for anaerobic digester production; amending RCW 84.36.635; reenacting and amending RCW 82.29A.135; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.36.635 and 2003 c 261 s 9 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Alcohol fuel" means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements, and machines or implements of husbandry.

(b) "Anaerobic digester" has the same meaning as provided in RCW 82.08.900.

(c) "Biodiesel feedstock" means oil that is produced from an agricultural crop for the sole purpose of ultimately producing biodiesel fuel.

(((~~(c)~~))) (d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and that meets the requirements of the American society of testing and materials specification D 6751 in effect as of January 1, 2003.

(2)(a) All buildings, machinery, equipment, and other personal property which ((~~is~~)) are used primarily for the manufacturing of alcohol fuel, biodiesel fuel, ((~~or~~)) biodiesel feedstock, or the operation of an anaerobic digester, the land upon which this property is located, and land that is reasonably necessary in the manufacturing of alcohol fuel, biodiesel fuel, ((~~or~~)) biodiesel feedstock, or the operation of an anaerobic digester, but not land necessary for growing of crops, which together comprise a new manufacturing facility or an addition to an existing manufacturing facility, are exempt from property taxation for the six assessment years following the date on which the facility or the addition to the existing facility becomes operational.

(b) For manufacturing facilities which produce products in addition to alcohol fuel, biodiesel fuel, or biodiesel feedstock, the amount of the property tax exemption shall be based upon the annual percentage of the total value of all products manufactured that is the value of the alcohol fuel, biodiesel fuel, and biodiesel feedstock manufactured.

(3) Claims for exemptions authorized by this section shall be filed with the county assessor on forms prescribed by the department of revenue and furnished by the assessor. Once filed, the exemption is valid for six years and shall not be

renewed. The assessor shall verify and approve claims as the assessor determines to be justified and in accordance with this section. No claims may be filed after December 31, 2009, except for claims for anaerobic digesters, which may be filed no later than December 31, 2012.

The department of revenue may promulgate such rules, pursuant to chapter 34.05 RCW, as necessary to properly administer this section.

Sec. 2. RCW 82.29A.135 and 2003 c 339 s 10 and 2003 c 261 s 10 are each reenacted and amended to read as follows:

(1) For the purposes of this section:

(a) "Alcohol fuel" means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements, and machines or implements of husbandry.

(b) "Anaerobic digester" has the same meaning as provided in RCW 82.08.900.

(c) "Biodiesel feedstock" means oil that is produced from an agricultural crop for the sole purpose of ultimately producing biodiesel fuel.

((~~(c)~~)) (d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and that meets the requirements of the American society of testing and materials specification D 6751 in effect as of January 1, 2003.

((~~(d)~~)) (e) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in internal combustion engines, and produced from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic.

(2)(a) All leasehold interests in buildings, machinery, equipment, and other personal property which ((~~is~~)) are used primarily for the manufacturing of alcohol fuel, wood biomass fuel, biodiesel fuel, ((~~or~~)) biodiesel feedstock, or the operation of an anaerobic digester, the land upon which this property is located, and land that is reasonably necessary in the manufacturing of alcohol fuel, wood biomass fuel, biodiesel fuel, ((~~or~~)) biodiesel feedstock, or the operation of an anaerobic digester, but not land necessary for growing of crops, which together comprise a new manufacturing facility or an addition to an existing manufacturing facility, are exempt from leasehold taxes for a period of six years from the date on which the facility or the addition to the existing facility becomes operational.

(b) For manufacturing facilities which produce products in addition to alcohol fuel, wood biomass fuel, biodiesel fuel, or biodiesel feedstock, the amount of the leasehold tax exemption shall be based upon the annual percentage of the total value of all products manufactured that is the value of the alcohol fuel, wood biomass fuel, biodiesel fuel, and biodiesel feedstock manufactured.

(3) Claims for exemptions authorized by this section shall be filed with the department of revenue on forms prescribed by the department of revenue and furnished by the department of revenue. Once filed, the exemption is valid for six years and shall not be renewed. The department of revenue shall verify and approve claims as the department of revenue determines to be justified and in accordance with this section. No claims may be filed after December 31, 2009,

except for claims for anaerobic digesters, which may be filed no later than December 31, 2012.

The department of revenue may promulgate such rules, pursuant to chapter 34.05 RCW, as are necessary to properly administer this section.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2008.

Passed by the Senate March 5, 2008.
Passed by the House March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 269

[Substitute Senate Bill 6851]

REAL PROPERTY TRANSFER—INHERITANCE—TAX EXEMPTION

AN ACT Relating to the documentation required in order to obtain a real estate excise tax exemption at the time of inheritance; and adding a new section to chapter 82.45 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.45 RCW to read as follows:

In order to receive an exemption from the tax in this chapter on real property transferred as a result of inheritance under RCW 82.45.010(3)(a), the following documentation must be provided:

(1) If the property is being transferred under the terms of a community property agreement, a copy of the recorded agreement and a certified copy of the death certificate;

(2) If the property is being transferred under the terms of a trust instrument, a certified copy of the death certificate and a copy of the trust instrument showing the authority of the grantor;

(3) If the property is being transferred under the terms of a probated will, a certified copy of the letters testamentary or in the case of intestate administration, a certified copy of the letters of administration showing that the grantor is the court-appointed executor, executrix, or administrator, and a certified copy of the death certificate;

(4) In the case of joint tenants with right of survivorship and remainder interests, a certified copy of the death certificate is recorded to perfect title;

(5) If the property is being transferred pursuant to a court order, a certified copy of the court order requiring the transfer, and confirming that the grantor is required to do so under the terms of the order; or

(6) If the community property interest of the decedent is being transferred to a surviving spouse or surviving domestic partner absent the documentation set forth in subsections (1) through (5) of this section, a certified copy of the death certificate and a signed affidavit from the surviving spouse or surviving domestic partner affirming that he or she is the sole and rightful heir to the property.

Passed by the Senate March 12, 2008.
Passed by the House March 12, 2008.

Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 270

[Engrossed Substitute House Bill 3096]

STATE ROUTE NUMBER 520—BRIDGE REPLACEMENT

AN ACT Relating to financing the state route number 520 bridge replacement project; adding new sections to chapter 47.01 RCW; adding new sections to chapter 47.56 RCW; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the replacement of the vulnerable state route number 520 bridge is a matter of urgency for the safety of Washington's traveling public and the needs of the transportation system in central Puget Sound. The state route number 520 bridge is forty-four years old and has a useful remaining life of between thirteen and eighteen years. While one hundred fifteen thousand vehicles travel on the bridge each day, there is an ever present likelihood that wind or an earthquake could suddenly destroy the bridge or render it unusable. Therefore, the state must develop a comprehensive approach to fund a state route number 520 bridge replacement to be constructed by 2018.

NEW SECTION. **Sec. 2.** A new section is added to chapter 47.01 RCW to read as follows:

(1) The state route number 520 bridge replacement and HOV project shall be designed to provide six total lanes, with two lanes that are for transit and high-occupancy vehicle travel, and four general purpose lanes.

(2) The state route number 520 bridge replacement and HOV project shall be designed to accommodate effective connections for transit, including high capacity transit, to the light rail station at the University of Washington.

NEW SECTION. **Sec. 3.** A new section is added to chapter 47.56 RCW to read as follows:

The state route number 520 bridge replacement and HOV project finance plan must include:

(1) Recognition of revenue sources that include: One billion seven hundred million dollars in state and federal funds allocated to the project; one billion five hundred million dollars to two billion dollars in tolling revenue, including early tolls that could begin in late 2009; eighty-five million dollars in federal urban partnership grant funds; and other contributions from private and other government sources; and

(2) Recognition of savings to be realized from:

(a) Potential early construction of traffic improvements from the eastern Lake Washington shoreline to 108th Avenue Northeast in Bellevue;

(b) Early construction of a single string of pontoons to support two lanes that are for transit and high-occupancy vehicle travel and four general purpose lanes;

(c) Preconstruction tolling to reduce total financing costs; and

(d) A deferral of the sales taxes paid on construction costs.

NEW SECTION. **Sec. 4.** A new section is added to chapter 47.56 RCW to read as follows:

(1) Following the submission of the report required in section 6 of this act, the department may seek authorization from the legislature to collect tolls on the existing state route number 520 bridge or on a replacement state route number 520 bridge.

(2) The schedule of toll charges must be established by the transportation commission and collected in a manner determined by the department.

NEW SECTION. **Sec. 5.** A new section is added to chapter 47.56 RCW to read as follows:

The department shall work with the federal highways administration to determine the necessary actions for receiving federal authorization to toll the Interstate 90 floating bridge. The department must periodically report the status of those discussions to the governor and the joint transportation committee.

NEW SECTION. **Sec. 6.** (1) The executive director of the Puget Sound regional council, the secretary of the department of transportation or his or her designee, and a member of the state transportation commission from King county shall form a state route number 520 tolling implementation committee.

(2) The committee must:

(a) Evaluate the potential diversion of traffic from state route number 520 to other parts of the transportation system, including state route number 522 and local roadways, when tolls are implemented on state route number 520 or other corridors, and recommend mitigation measures to address the diversion;

(b) Evaluate the most advanced tolling technology to ensure an efficient and timely trip for users of the state route number 520 bridge;

(c) Evaluate available active traffic management technology to determine the most effective options for technology that could manage congestion on the state route number 520 bridge and other impacted facilities;

(d) Explore opportunities to partner with the business community to reduce congestion and financially contribute to the state route number 520 bridge replacement project;

(e) Confer with the mayors and city councils of jurisdictions adjacent to the state route number 520 corridor, the state route number 522 corridor, and the Interstate 90 corridor regarding the implementation of tolls, the impacts that the implementation of tolls might have on the operation of the corridors, the diversion of traffic to local streets, and potential mitigation measures;

(f) Conduct public work sessions and open houses to provide information to citizens, including users of the bridge and business and freight interests, regarding implementation of tolls on the state route number 520 bridge and solicit citizen views on the following items:

(i) Funding a portion of the state route number 520 bridge replacement project with tolls on the existing bridge;

(ii) Funding the state route number 520 bridge replacement project and improvements on the Interstate 90 bridge with a toll paid by drivers on both bridges;

(iii) Providing incentives and choices for users of the state route number 520 bridge replacement project to use transit and to carpool; and

(iv) Implementing variable tolling as a way to reduce congestion on the facility; and

(g) Provide a report to the governor and the legislature by January 2009.

(3) The department of transportation shall provide staff support to the committee.

NEW SECTION. **Sec. 7.** A new section is added to chapter 47.01 RCW to read as follows:

(1)(a) Any person involved in the construction of the state route number 520 bridge replacement and HOV project may apply for deferral of state and local sales and use taxes on the site preparation for, the construction of, the acquisition of any related machinery and equipment that will become a part of, and the rental of equipment for use in, the project.

(b) Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application must contain information regarding estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within sixty days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW and RCW 81.104.170 on the project.

(3) A person granted a tax deferral under this section shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the project is operationally complete. The project is operationally complete under this section when the replacement bridge is constructed and opened to traffic. The first payment is due on December 31st of the fifth calendar year after the certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of a person granted a deferral under this section.

(5) Interest shall not be charged on any taxes deferred under this section 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 section. The debt for deferred taxes is not extinguished by insolvency or other failure of any private entity granted a deferral under this section.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

(7) For purposes of this section, "person" has the same meaning as in RCW 82.04.030 and also includes the department of transportation.

NEW SECTION. **Sec. 8.** Section 6 of this act expires February 1, 2009.

Passed by the House March 8, 2008.
Passed by the Senate March 5, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 271

[Second Substitute House Bill 2479]

WIRELESS NUMBERS—DISCLOSURE

AN ACT Relating to disclosure of wireless numbers; amending RCW 19.250.010; adding new sections to chapter 19.250 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the right to privacy is a personal and fundamental right protected by Article I, section 7 of the state Constitution. The legislature also finds that, in the vast majority of cases, subscribers pay for both incoming and outgoing calls, and that subscribers purchase cell phone service with an expectation that their numbers will not be made public. Therefore, the legislature recognizes that a subscriber's cell phone number should be kept private, unless that subscriber knowingly provides their express, opt-in consent to have that number made available in a public directory.

NEW SECTION. **Sec. 2.** A new section is added to chapter 19.250 RCW to read as follows:

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

(1) "Directory provider" means any person in the business of marketing, selling, or sharing the phone number of any subscriber for commercial purposes.

(2) "Radio communications service company" has the same meaning as in RCW 80.04.010.

(3) "Reverse phone number search services" means a service that provides the name of a subscriber associated with a phone number when the phone number is supplied.

(4) "Subscriber" means a person who resides in the state of Washington and subscribes to radio communications services, radio paging, or cellular communications service.

(5) "Wireless phone number" means a phone number unique to the subscriber that permits the subscriber to receive radio communications, radio paging, or cellular communications from others.

Sec. 3. RCW 19.250.010 and 2005 c 322 s 1 are each amended to read as follows:

(1) A radio communications service company((~~, as defined in RCW 80.04.010,~~)) or any direct or indirect affiliate or agent of a ((~~provider~~)) radio communications service company shall not include the wireless phone number of any subscriber for inclusion in any directory of any form, nor shall it sell the contents of any directory database, without first obtaining the express, opt-in consent of that subscriber. The subscriber's consent must be obtained either in writing or electronically, and a receipt must be provided to the subscriber. The consent shall be a separate document or located on a separate screen or web page that has the sole purpose of authorizing a radio communications service company to include the subscriber's wireless phone number in a publicly available directory assistance database.

(2) In obtaining the subscriber's consent, the ((~~provider~~)) radio communications service company or direct or indirect affiliate or agent of a radio communications service company shall unambiguously disclose that, by consenting, the subscriber agrees to ((~~have~~)) the following:

(a) That the subscriber's wireless phone number may be sold or licensed as part of a list of subscribers and that the wireless phone number may be included in a publicly available directory assistance database((. ~~The provider must also disclose that by consenting to be included in the directory.~~));

(b) That the subscriber may incur additional charges for receiving unsolicited calls or text messages; and

(c) That the subscriber's express, opt-in consent will be construed as consent for the subsequent publication of the wireless phone number to and by third parties in other directories or databases.

(((~~(2) A subscriber who provides express consent pursuant to subsection (1) of this section may revoke that consent at any time. A radio communications service company shall comply with the subscriber's request to opt out within a reasonable period of time, not to exceed sixty days.~~

~~(3) A subscriber shall not be charged for opting not to be listed in the directory.~~

~~(4) This section does not apply to the provision of telephone numbers, for the purposes indicated, to:~~

~~(a) Any law enforcement agency, fire protection agency, public health agency, public environmental health agency, city or county emergency services planning agency, or private for profit corporation operating under contract with, and at the direction of, one or more of these agencies, for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property. Information or records provided to a private for profit corporation pursuant to (b) of this subsection shall be held in confidence by that corporation and by any individual employed by or associated with that corporation. Such information or records shall not be open to examination for any purpose not directly connected with the administration of the services specified in this subsection;~~

~~(b) A lawful process issued under state or federal law;~~

~~(c) A telecommunications company providing service between service areas for the provision of telephone services to the subscriber between service areas, or to third parties for the limited purpose of providing billing services;~~

~~(d) A telecommunications company to effectuate a customer's request to transfer the customer's assigned telephone number from the customer's existing provider of telecommunications services to a new provider of telecommunications services;~~

~~(e) The utilities and transportation commission pursuant to its jurisdiction and control over telecommunications companies; and~~

~~(f) A sales agent to provide the subscriber's cell phone numbers to the cellular provider for the limited purpose of billing and customer service.~~

~~(5) Every knowing violation of this section is punishable by a fine of up to fifty thousand dollars for each violation.~~

~~(6) The attorney general may bring actions to enforce compliance with this section. For the first violation by any company or organization of this section, the attorney general may notify the company with a letter of warning that the section has been violated.~~

~~(7) No telecommunications company, nor any official or employee of a telecommunications company, shall be subject to criminal or civil liability for the release of customer information as authorized by this section.~~))

NEW SECTION. **Sec. 4.** A new section is added to chapter 19.250 RCW to read as follows:

(1) A directory provider shall not include any phone number that belongs to a Washington state resident in any directory of any form, or sell the contents of any directory database, without first undertaking a reasonable ongoing investigation as to whether the phone number is a wireless phone number. An investigation under this section is presumed reasonable if the directory provider compares the phone number at least every thirty days against: (a) A commercially available list of central office code assignment records offered through the North American numbering plan administration or other similar service; or (b) a commercially available list of intermodal ports of telephone numbers between wireline-to-wireless ports and wireless-to-wireline ports. A directory provider also has a duty to continually use up-to-date, commercially available technology when conducting its investigation of a phone number. If an investigation reveals that the phone number is a wireless phone number, the directory provider shall not include the number in any directory of any form, or sell the contents of any directory database without first obtaining the subscriber's express, opt-in consent. The subscriber's consent must be obtained either in writing or electronically, and a receipt must be provided to the subscriber. The consent must be a separate document or located on a separate screen or web page that has the sole purpose of authorizing a directory provider to include the subscriber's wireless phone number in a publicly available directory assistance database.

(2) In obtaining the subscriber's consent, the directory provider shall unambiguously disclose that, by consenting, the subscriber agrees to the following:

(a) That the subscriber's wireless phone number may be sold or licensed as part of a list of subscribers and that the wireless phone number may be included in a publicly available directory assistance database;

(b) That the subscriber may incur additional charges for receiving unsolicited calls or text messages; and

(c) That the subscriber's express, opt-in consent will be construed as consent for the subsequent publication of the wireless phone number to and by third parties in other directories or databases.

(3) This section does not preclude a directory provider from providing a reverse phone number search service. However, a subscriber whose wireless phone number is contained in a reverse phone number search service may utilize the opt-out provisions set forth in section 5 of this act.

NEW SECTION. **Sec. 5.** A new section is added to chapter 19.250 RCW to read as follows:

(1) A subscriber who provides express, opt-in consent under RCW 19.250.010 and section 4 of this act may revoke that consent at any time. A radio communications service company and a directory provider shall comply with the subscriber's request to opt out within a reasonable period of time, not to exceed sixty days for printed directories and not to exceed thirty days for online directories.

(2) At the subscriber's request, a provider of a reverse phone number search service must allow a subscriber to perform a reverse phone number search free of charge to determine whether the subscriber's wireless phone number is listed

in the reverse phone number search service. If the subscriber finds that his or her wireless phone number is contained in the reverse phone number search service, the subscriber may opt out of having his or her wireless phone number included in the reverse phone number search service at any time. The provider of the reverse phone number search service must comply with the subscriber's request to opt out within a reasonable period of time, not to exceed thirty days.

(3) A subscriber shall not be charged for opting out of having his or her wireless phone number listed in a directory or reverse phone number search service.

NEW SECTION. **Sec. 6.** A new section is added to chapter 19.250 RCW to read as follows:

The legislature finds that allowing a subscriber to opt out of a reverse phone number search service vitally affects the public interest for the purpose of applying chapter 19.86 RCW. A violation of section 5 of this act by a provider of a reverse phone number search service is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying chapter 19.86 RCW.

NEW SECTION. **Sec. 7.** A new section is added to chapter 19.250 RCW to read as follows:

(1) Every knowing violation of RCW 19.250.010 is punishable by a fine of not less than two thousand dollars and no more than fifty thousand dollars for each violation. Including a wireless phone number in a directory without a subscriber's express, opt-in consent pursuant to section 4 of this act is a violation of this chapter and is punishable by a fine of up to fifty thousand dollars unless the directory provider first conducted a reasonable investigation as required in section 4 of this act and was unable to determine if the published number was a wireless phone number.

(2) The attorney general may bring actions to enforce compliance with this section. For the first violation by any company, organization, or person under this chapter, the attorney general may notify the company, organization, or person with a letter of warning that this chapter has been violated.

(3) A telecommunications company or directory provider, or any official or employee of a telecommunications company or directory provider, is not subject to criminal or civil liability for the release of customer information as authorized by this chapter.

NEW SECTION. **Sec. 8.** A new section is added to chapter 19.250 RCW to read as follows:

(1) A radio communications service company or a directory provider, who has maintained a directory before the effective date of this section, must within thirty days either:

(a) Secure the express, opt-in consent of each subscriber listed in the directory as specified in RCW 19.250.010 or section 4 of this act; or

(b) Remove the wireless phone numbers of any subscribers who have not provided their express, opt-in consent.

(2) This section does not apply to the following:

(a) A directory provider that has undertaken a reasonable investigation pursuant to section 4 of this act and is unable to determine whether the phone number is a wireless phone number;

(b) A directory provider that publishes a subscriber's wireless phone number in a directory that is obtained directly from a radio communications service company and that radio communications service company has obtained the required express, opt-in consent for including in any directory the subscriber's wireless phone number as specified in RCW 19.250.010;

(c) A person that publishes a subscriber's wireless phone number in a directory where the subscriber pays a fee to have the number published for commercial purposes; and

(d) A person that publishes a subscriber's wireless phone number that was ported from listed wireline service to wireless service within the previous fifteen months.

(3) This section does not preclude a directory provider from providing a reverse phone number search service. However, a subscriber whose wireless phone number is contained in a reverse phone number search service may utilize the opt-out provisions set forth in section 5 of this act.

NEW SECTION. **Sec. 9.** A new section is added to chapter 19.250 RCW to read as follows:

This chapter does not apply to the provision of wireless phone numbers, for the purposes indicated, to:

(1) Any law enforcement agency, fire protection agency, public health agency, public environmental health agency, city or county emergency services planning agency, or private for-profit corporation operating under contract with, and at the direction of, one or more of these agencies, for the exclusive purpose of responding to a 911 call or communicating an imminent threat to life or property. Information or records provided to a private for-profit corporation pursuant to subsection (2) of this section must be held in confidence by that corporation and by any individual employed by or associated with that corporation. Such information or records are not open to examination for any purpose not directly connected with the administration of the services specified in this subsection;

(2) A lawful process issued under state or federal law;

(3) A telecommunications company providing service between service areas for the provision of telephone services to the subscriber between service areas, or to third parties for the limited purpose of providing billing services;

(4) A telecommunications company to effectuate a customer's request to transfer the customer's assigned telephone number from the customer's existing provider of telecommunications services to a new provider of telecommunications services;

(5) The utilities and transportation commission pursuant to its jurisdiction and control over telecommunications companies;

(6) A sales agent to provide the subscriber's wireless phone numbers to the radio communications service company for the limited purpose of billing and customer service;

(7) A directory provider that has undertaken a reasonable investigation pursuant to section 4 of this act and is unable to determine whether the phone number is a wireless phone number;

(8) A directory provider that publishes a subscriber's wireless phone number in a directory that is obtained directly from a radio communications service company and that radio communications service company has obtained the required express, opt-in consent for including in any directory the subscriber's wireless phone number as specified in RCW 19.250.010;

(9) A person that publishes a subscriber's wireless phone number in a directory where the subscriber pays a fee to have the number published for commercial purposes;

(10) A person that publishes a subscriber's wireless phone number that was ported from listed wireline service to wireless service within the previous fifteen months; and

(11) A consumer reporting agency as defined in RCW 19.182.010 for use as a unique identifier of a consumer in a consumer report as defined in RCW 19.182.010.

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 272

[Substitute House Bill 2525]

FLOOD DAMAGE—MITIGATION

AN ACT Relating to mitigating flood damage; and amending RCW 77.55.021.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 77.55.021 and 2005 c 146 s 201 are each amended to read as follows:

(1) Except as provided in RCW 77.55.031, 77.55.051, and 77.55.041, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit may be submitted in person or by registered mail and must contain the following:

(a) General plans for the overall project;

(b) Complete plans and specifications of the proposed construction or work within the mean higher high water line in saltwater or within the ordinary high water line in freshwater;

(c) Complete plans and specifications for the proper protection of fish life; and

(d) Notice of compliance with any applicable requirements of the state environmental policy act, unless otherwise provided for in this chapter.

(3)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned. Except as provided in this subsection and subsections (8), (10), and ((~~(11)~~)) (12) of this section, the department has forty-five calendar days upon receipt of a complete application

to grant or deny approval of a permit. The forty-five day requirement is suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection;

(iii) The applicant requests a delay; or

(iv) The department is issuing a permit for a storm water discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(b) Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(c) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(4) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life. Issuance, denial, conditioning, or modification of a permit shall be appealable to the department or the board as specified in RCW 77.55.301 within thirty days of the notice of decision.

(5)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for a period of up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for streambank stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

(6) The department may, after consultation with the permittee, modify a permit due to changed conditions. The modification becomes effective unless appealed to the department or the board as specified in RCW 77.55.301 within thirty days from the notice of the proposed modification. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

(7) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request. A decision by the department may be appealed to

the board within thirty days of the notice of the decision. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

(8)(a) The department ((~~or~~)), the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the department ((~~if it declares an emergency under this subsection~~)). A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

(b) The department, through its authorized representatives, shall issue immediately, upon request, oral approval for a stream crossing, or work to remove any obstructions, repair existing structures, restore streambanks, protect fish life, or protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written permit prior to commencing work. Conditions of the emergency oral permit must be established by the department and reduced to writing within thirty days and complied with as provided for in this chapter.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(9) All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

(10) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(11)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department shall issue a permit, upon request, for work necessary to abate the chronic danger by

removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (3) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(12) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

Passed by the House February 19, 2008.
Passed by the Senate March 10, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 273

[Substitute House Bill 2585]

NEWSPAPER-LABELED SUPPLEMENTS—TAXATION

AN ACT Relating to the business and occupation taxation of newspaper-labeled supplements; amending RCW 82.04.214; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.04.214 and 1994 c 22 s 1 are each amended to read as follows:

(1)(a) Until June 30, 2011, "newspaper" means:

(i) A publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper; and

(ii) An electronic version of a printed newspaper that:

(A) Shares content with the printed newspaper; and

(B) Is prominently identified by the same name as the printed newspaper or otherwise conspicuously indicates that it is a complement to the printed newspaper.

(b) For purposes of this section, "supplement" means a printed publication, including a magazine or advertising section, that is:

(i) Labeled and identified as part of the printed newspaper; and

(ii) Circulated or distributed:

(A) As an insert or attachment to the printed newspaper; or

(B) Separate and apart from the printed newspaper so long as the distribution is within the general circulation area of the newspaper.

(2) Beginning July 1, 2011, "newspaper" means a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper as defined in subsection (1)(b) of this section.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2008.

Passed by the House March 13, 2008.
Passed by the Senate March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 274

[Second Substitute House Bill 2598]
ONLINE MATHEMATICS CURRICULUM

AN ACT Relating to development of an online mathematics curriculum; amending RCW 28A.305.215; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** Within thirty days after the adoption of final revised mathematics standards as directed under RCW 28A.305.215, the office of the superintendent of public instruction and the state board of education shall work together to develop a request for proposals for private vendors or nonprofit organizations to adapt an existing mathematics curriculum to be aligned with Washington's essential academic learning requirements and grade level expectations and make the curriculum available online at no cost to school districts. At a minimum, the proposed curriculum shall cover course content in grades kindergarten through twelve and the state's college readiness standards. Proposals shall address cost and timelines for adaptation and implementation of the curriculum. The office of the superintendent of public instruction shall review the responses to the request for proposals, including an analysis of the qualifications of the respondents, and report the results of the request for proposals under this section to the governor and the education and fiscal committees of the legislature by December 1, 2008.

Sec. 2. RCW 28A.305.215 and 2007 c 396 s 1 are each amended to read as follows:

(1) The activities in this section revise and strengthen the state learning standards that implement the goals of RCW 28A.150.210, known as the essential academic learning requirements, and improve alignment of school district curriculum to the standards.

(2) The state board of education shall be assisted in its work under subsections (3) and (5) of this section by: (a) An expert national consultant in each of mathematics and science retained by the state board; and (b) the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, which shall provide review and formal comment on proposed recommendations to the superintendent of public instruction and the state board of education on new revised standards and curricula.

(3) By September 30, 2007, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in mathematics. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of:

(i) Standards used in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment;

(ii) College readiness standards;

(iii) The national council of teachers of mathematics focal points and the national assessment of educational progress content frameworks; and

(iv) Standards used by three to five other states, including California, and the nation of Singapore; and

(c) Consideration of information presented during public comment periods.

(4) By January 31, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for mathematics and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2008 legislative session.

(5) By June 30, 2008, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in science. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of standards used by three to five other states and in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment; and

(c) Consideration of information presented during public comment periods.

(6) By December 1, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for science and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2009 legislative session.

(7)(a) ((~~By May 15, 2008~~)) Within six months after the standards under subsection (4) of this section are adopted, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans.

(b) ((~~By June 30, 2008~~)) Within two months after the presentation of the recommended curricula, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(c) By May 15, 2009, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic science curricula each for elementary, middle, and high school grade spans.

(d) By June 30, 2009, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended science curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(e) In selecting the recommended curricula under this subsection (7), the superintendent of public instruction shall provide information to the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, and seek the advice of the appropriate panel regarding the curricula that shall be included in the recommendations.

(f) The recommended curricula under this subsection (7) shall align with the revised essential academic learning requirements and grade level expectations. In addition to the recommended basic curricula, appropriate diagnostic and supplemental materials shall be identified as necessary to support each curricula.

(g) Subject to funds appropriated for this purpose and availability of the curricula, at least one of the curricula in each grade span and in each of mathematics and science shall be available to schools and parents online at no cost to the school or parent.

(8) By December 1, 2007, the state board of education shall revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics, one of which may be a career and technical course equivalent in mathematics, and prescribe the mathematics content in the three required credits.

(9) Nothing in this section requires a school district to use one of the recommended curricula under subsection (7) of this section. However, the statewide accountability plan adopted by the state board of education under RCW 28A.305.130 shall recommend conditions under which school districts should be required to use one of the recommended curricula. The plan shall also describe the conditions for exception to the curriculum requirement, such as the use of integrated academic and career and technical education curriculum. Required use of the recommended curricula as an intervention strategy must be authorized by the legislature as required by RCW 28A.305.130(4)(e) before implementation.

(10) The superintendent of public instruction shall conduct a comprehensive survey of the mathematics curricula being used by school districts at all grade levels and the textbook and curriculum purchasing cycle of the districts and report the results of the survey to the education committees of the legislature by November 15, 2008.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 12, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 275

[Engrossed Second Substitute House Bill 2624]

HUMAN REMAINS

AN ACT Relating to human remains; amending RCW 27.53.030; adding a new section to chapter 68.50 RCW; adding a new section to chapter 27.44 RCW; adding a new section to chapter 68.60 RCW; adding new sections to chapter 43.334 RCW; adding a new section to chapter 27.34 RCW; creating new sections; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 68.50 RCW to read as follows:

(1) It is the duty of every person who knows of the existence and location of skeletal human remains to notify the coroner and local law enforcement in the most expeditious manner possible, unless such person has good reason to believe that such notice has already been given. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice to the coroner and local law enforcement, is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination of whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such human remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local

cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. **Sec. 2.** A new section is added to chapter 27.44 RCW to read as follows:

(1) Any person who discovers skeletal human remains must notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. **Sec. 3.** A new section is added to chapter 68.60 RCW to read as follows:

(1) Any person who discovers skeletal human remains shall notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of skeletal human remains and not having

good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.334 RCW to read as follows:

(1) The director shall appoint a state physical anthropologist. At a minimum, the state physical anthropologist must have a doctorate in either archaeology or anthropology and have experience in forensic osteology or other relevant aspects of physical anthropology and must have at least one year of experience in laboratory reconstruction and analysis. A medical degree with archaeological experience in addition to the experience required may substitute for a doctorate in archaeology or anthropology.

(2) The state physical anthropologist has the primary responsibility of investigating, preserving, and, when necessary, removing and reinterring discoveries of nonforensic skeletal human remains. The state physical anthropologist is available to any local governments or any federally recognized tribal government within the boundaries of Washington to assist in determining whether discovered skeletal human remains are forensic or nonforensic.

(3) The director shall hire staff as necessary to support the state physical anthropologist to meet the objectives of this section.

(4) For the purposes of this section, "forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

Sec. 5. RCW 27.53.030 and 2005 c 333 s 20 are each amended to read as follows:

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

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Department" means the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(5) "Director" means the director of the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(6) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of

Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(7) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(8) "Professional archaeologist" means a person ((~~who has met the educational, training, and experience requirements of the society of professional archaeologists.~~

~~(9) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists~~)) with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

((~~(10)~~)) (9) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

((~~(11)~~)) (10) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

NEW SECTION. **Sec. 6.** A new section is added to chapter 27.34 RCW to read as follows:

The department of archaeology and historic preservation shall develop and maintain a centralized database and geographic information systems spatial layer of all known cemeteries and known sites of burials of human remains in Washington state. The information in the database is subject to public disclosure, except as provided in RCW 42.56.300; exempt information is available by confidentiality agreement to federal, state, and local agencies for purposes of environmental review, and to tribes in order to participate in environmental review, protect their ancestors, and perpetuate their cultures.

Information provided to state and local agencies under this section is subject to public disclosure, except as provided in RCW 42.56.300.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.334 RCW to read as follows:

The skeletal human remains assistance account is created in the custody of the state treasurer. All appropriations provided by the legislature for this purpose as well as any reimbursement for services provided pursuant to this act must be deposited in the account. Expenditures from the account may be used

only for archaeological determinations and excavations of inadvertently discovered skeletal human remains, and removal and reinterment of such remains when necessary. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 8.** The department of archaeology and historic preservation must communicate with the appropriate committees of the legislature by November 15, 2009, and biennially thereafter, regarding the numbers of inadvertent discoveries of skeletal human remains and other associated activities pursuant to this act.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 12, 2008.
Passed by the Senate March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 276

[Engrossed Second Substitute House Bill 2712]
CRIMINAL STREET GANGS

AN ACT Relating to criminal street gangs; amending RCW 42.56.240, 9.94A.533, 9.94A.535, 9.94A.545, and 10.22.010; reenacting and amending RCW 9.94A.715 and 9.94A.030; adding a new section to chapter 43.20A RCW; adding new sections to chapter 36.28A RCW; adding a new section to chapter 43.43 RCW; adding a new section to chapter 9.94A RCW; adding a new section to chapter 9A.48 RCW; adding a new section to chapter 4.24 RCW; adding a new section to chapter 28A.300 RCW; adding new sections to chapter 43.31 RCW; adding a new section to chapter 72.09 RCW; adding a new chapter to Title 9 RCW; creating new sections; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

PART I
NEAR-TERM RELIEF FOR 2008

Washington Association Of Sheriffs And Police Chiefs Grant Program To Communities

NEW SECTION. **Sec. 101.** A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall establish a grant program to assist local law enforcement agencies in the support of special enforcement emphasis targeting gang crime. Grant applications shall be reviewed and awarded through peer review panels. Grant applicants are encouraged to utilize multijurisdictional efforts.

(2) Each grant applicant shall:

(a) Show a significant gang problem in the jurisdiction or jurisdictions receiving the grant;

(b) Verify that grant awards are sufficient to cover increased investigation, prosecution, and jail costs;

(c) Design an enforcement program that best suits the specific gang problem in the jurisdiction or jurisdictions receiving the grant;

(d) Demonstrate community coordination focusing on prevention, intervention, and suppression; and

(e) Collect data on performance pursuant to section 103 of this act.

(3) The cost of administering the grants shall not exceed sixty thousand dollars, or four percent of appropriated funding, whichever is greater.

Graffiti/Tagging Abatement Grant

NEW SECTION. **Sec. 102.** A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall establish a grant program to assist local law enforcement agencies in the support of graffiti and tagging abatement programs located in local communities. Grant applicants are encouraged to utilize multijurisdictional efforts.

(2) Each graffiti or tagging abatement grant applicant shall:

(a) Demonstrate that a significant gang problem exists in the jurisdiction or jurisdictions receiving the grant;

(b) Show how the funds will be used to dispose or eliminate any current or ongoing tagging or graffiti within a specified time period;

(c) Specify how the funds will be used to reduce gang-related graffiti or tagging within its community;

(d) Show how the local citizens and business owners of the community will benefit from the proposed graffiti or tagging abatement process being presented in the grant application; and

(e) Collect data on performance pursuant to section 103 of this act.

(3) The cost of administering the grants shall not exceed twenty-five thousand dollars, or four percent of funding, whichever is greater.

NEW SECTION. **Sec. 103.** A new section is added to chapter 36.28A RCW to read as follows:

For the grant programs created in sections 101 and 102 of this act and within the funds provided for these programs, the Washington association of sheriffs and police chiefs shall, upon consultation with the Washington state institute for public policy, identify performance measures, periodic reporting requirements, data needs, and a framework for evaluating the effectiveness of grant programs in graffiti and tagging abatement and reducing gang crime.

PART II
STATEWIDE GANG INFORMATION DATABASE

NEW SECTION. **Sec. 201.** A new section is added to chapter 43.43 RCW to read as follows:

The Washington association of sheriffs and police chiefs shall work with the Washington state patrol to coordinate, designate, and recommend the use of a statewide database accessible by law enforcement agencies that utilizes existing

resources, networks, or structures for assessing and addressing the problems associated with criminal street gangs.

(1) The gang database shall comply with federal regulations for state law enforcement databases shared with other law enforcement agencies, including auditing and access to data.

(2) The Washington state patrol, in consultation with the Washington state association of sheriffs and police chiefs, shall adopt uniform state criteria for entering gangs, gang members, and gang associates into the database. Data on individuals may be entered only based on reasonable suspicion of criminal activity or actual criminal activity and must be supported by documentation, where documentation is available.

(3) Information in the database shall be available to all local, state, and federal general authority law enforcement agencies, the Washington department of corrections, and the juvenile rehabilitation administration of the Washington department of social and health services solely for gang enforcement and for tracking gangs, gang members, and gang incidents. Information in the database shall not be available for public use.

(4) The database shall provide an internet-based multiagency, multilocation, information-sharing application that operates in a network fashion.

(5) The database shall be used solely as a law enforcement intelligence tool and shall not be used as evidence in any criminal, civil, or administrative proceeding. Law enforcement may use the information within the database to obtain information external to the database to formulate the probable cause necessary to make a stop or arrest. The mere existence of information relating to an individual within the database does not by itself justify a stop or arrest.

(6) Access to the database shall be determined by the chief executive officer of each participating agency. Information about specific individuals in the database shall be automatically expunged if: (a) No new or updated information has been entered into the database within the previous five years; (b) there are no pending criminal charges against such person in any court in this state or another state or in any federal court; (c) the person has not been convicted of a new crime in this state, another state, or federal court within the last five years; and (d) it has been five years since the person completed his or her term of total confinement.

(7) Each law enforcement and criminal justice agency using the database is required to:

(a) Identify a system administrator that is responsible for annually auditing the use of the system within his or her respective agency to ensure agency compliance with policies established for the use of the database;

(b) Ensure that all users of the database receive training on the use of the database before granting the users access to the database;

(c) Ensure that any information entered into the database relates to a criminal street gang associate or gang member who is twelve years old or older;

(d) Annually produce a gang threat assessment report including available data sources such as uniform crime reports, record management systems, and entries into the statewide gang database. Local public schools shall also be encouraged to provide data to the local gang threat assessment report.

(8) The database and all contents in the database are confidential and exempt from public disclosure under chapter 42.56 RCW.

(9) Any public employee or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving a person who has been included in the database, unless it is shown that an employee acted with gross negligence or bad faith.

Sec. 202. RCW 42.56.240 and 2005 c 274 s 404 are each amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies; ((~~and~~))

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator; and

(6) The statewide gang database referenced in section 201 of this act.

PART III
ADDITIONAL MEASURES TO COMBAT GANG-RELATED CRIME

Increase In Sentences For Adults Who Recruit Juveniles

Sec. 301. RCW 9.94A.533 and 2007 c 368 s 9 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition

of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition

of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after

July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in ((~~[the]~~)) the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

NEW SECTION. **Sec. 302.** A new section is added to chapter 9.94A RCW to read as follows:

(1) In a prosecution of a criminal street gang-related felony offense, the prosecution may file a special allegation that the felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense, as described under RCW 9.94A.533(10)(a).

(2) The state has the burden of proving a special allegation made under this section beyond a reasonable doubt. If a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether the criminal street gang-related felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense. If no jury is had, the court shall make a finding of fact as to whether the criminal street gang-related felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense.

Expansion Of The List Of Aggravating Factors

Sec. 303. RCW 9.94A.535 and 2007 c 377 s 10 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury -Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

Requiring Community Custody For Unlawful Possession Of A Firearm

Sec. 304. RCW 9.94A.545 and 2006 c 128 s 4 are each amended to read as follows:

(1) Except as provided in RCW 9.94A.650 and in subsection (2) of this section, on all sentences of confinement for one year or less, in which the offender is convicted of a sex offense, a violent offense, a crime against a person under RCW 9.94A.411, or felony violation of chapter 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation to commit such a crime, the court may impose up to one year of community custody, subject to conditions and sanctions as authorized in RCW 9.94A.715 and 9.94A.720. An offender shall be on community custody as of the date of sentencing. However, during the time for which the offender is in total or partial confinement pursuant to the sentence or a violation of the sentence, the period of community custody shall toll.

(2)(a) If the offender is guilty of failure to register under RCW 9A.44.130((~~(10)~~)) (11)(a), the court shall impose a term of community custody under RCW 9.94A.715.

(b) If the offender is a criminal street gang associate or member and is found guilty of unlawful possession of a firearm under RCW 9.41.040, the court shall impose a term of community custody under RCW 9.94A.715.

(c) In a criminal case in which there has been a special allegation, the state shall prove by a preponderance of the evidence that the accused is a criminal street gang member or associate as defined in RCW 9.94A.030 and has committed the crime of unlawful possession of a firearm. The court shall make a finding of fact of whether or not the accused was a criminal street gang member or associate at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not the accused was a criminal street gang member or associate during the commission of the crime.

Sec. 305. RCW 9.94A.715 and 2006 c 130 s 2 and 2006 c 128 s 5 are each reenacted and amended to read as follows:

(1) When a court sentences a person to the custody of the department for a sex offense not sentenced under RCW 9.94A.712, a violent offense, any crime against persons under RCW 9.94A.411(2), an offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate, or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, or when a court sentences a person to a term of confinement of one year or less for a violation of RCW 9A.44.130((~~(10)~~)) (11)(a) committed on or after June 7, 2006, the court shall in addition to the other terms of the sentence, sentence the offender to community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer. The community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under RCW 9.94A.660, upon failure to complete or administrative termination from the special drug offender sentencing alternative program. Except as provided in

RCW 9.94A.501, the department shall supervise any sentence of community custody imposed under this section.

(2)(a) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department shall enforce such conditions pursuant to subsection (6) of this section.

(b) As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department under RCW 9.94A.720. The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of the offender's community custody based upon the risk to community safety. In addition, the department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws. The department may impose electronic monitoring as a condition of community custody for an offender sentenced to a term of community custody under this section pursuant to a conviction for a sex offense. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(c) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions. The department shall notify the offender in writing of any such conditions or modifications. In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(3) If an offender violates conditions imposed by the court or the department pursuant to this section during community custody, the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.94A.737 and 9.94A.740.

(4) Except for terms of community custody under RCW 9.94A.670, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

(5) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the

expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040. If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

(6) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection.

(7) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to any of the following: (a) The crime of conviction; (b) the offender's risk of reoffending; or (c) the safety of the community.

Making Subsequent Convictions Of Malicious Mischief 3 A Gross Misdemeanor Offense

NEW SECTION. **Sec. 306.** A new section is added to chapter 9A.48 RCW to read as follows:

(1) A person is guilty of criminal street gang tagging and graffiti if he or she commits malicious mischief in the third degree under RCW 9A.48.090(1)(b) and he or she:

(a) Has multiple current convictions for malicious mischief in the third degree offenses under RCW 9A.48.090(1)(b); or

(b) Has previously been convicted for a malicious mischief in the third degree offense under RCW 9A.48.090(1)(b) or a comparable offense under a municipal code provision of any city or town; and

(c) The current offense or one of the current offenses is a "criminal street gang-related offense" as defined in RCW 9.94A.030.

(2) Criminal street gang tagging and graffiti is a gross misdemeanor offense.

Civil Cause Of Action For Graffiti And Tagging

NEW SECTION. **Sec. 307.** A new section is added to chapter 4.24 RCW to read as follows:

(1) An adult or emancipated minor who commits criminal street gang tagging and graffiti under section 306 of this act by causing physical damage to the property of another is liable in addition to actual damages, for a penalty to the owner in the amount of the value of the damaged property not to exceed one thousand dollars, plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars, plus all reasonable attorneys' fees and court costs expended by the owner.

(2) A conviction for violation of section 306 of this act is not a condition precedent to maintenance of a civil action authorized by this section.

(3) An owner demanding payment of a penalty under subsection (1) of this section shall give written notice to the person or persons from whom the penalty is sought.

Sec. 308. RCW 10.22.010 and 1999 c 143 s 45 are each amended to read as follows:

When a defendant is prosecuted in a criminal action for a misdemeanor, other than a violation of section 306 of this act, for which the person injured by the act constituting the offense has a remedy by a civil action, the offense may be compromised as provided in RCW 10.22.020, except when it was committed:

(1) By or upon an officer while in the execution of the duties of his office((-));

(2) Riotously;

(3) With an intent to commit a felony; or

(4) By one family or household member against another as defined in RCW 10.99.020 and was a crime of domestic violence as defined in RCW 10.99.020.

Criminal Street Gang Definition

Sec. 309. RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(9) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(11) "Confinement" means total or partial confinement.

(12) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(13) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(14) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(15) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in

concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(16) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(17) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(18) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

((~~(16)~~)) (19) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

((~~(17)~~)) (20) "Department" means the department of corrections.

((~~(18)~~)) (21) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

((~~(19)~~)) (22) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include

payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

((~~(20)~~)) (23) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

((~~(21)~~)) (24) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

((~~(22)~~)) (25) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

((~~(23)~~)) (26) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

((~~(24)~~)) (27) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

((~~(25)~~)) (28) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

((~~(26)~~)) (29) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

((~~(27)~~)) (30) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

((~~(28)~~)) (31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court

costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

((~~(29)~~)) (32) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent

liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

((~~(30)~~)) (33) "Nonviolent offense" means an offense which is not a violent offense.

((~~(31)~~)) (34) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

((~~(32)~~)) (35) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

((~~(33)~~)) (36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in RCW 9.94A.030, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by RCW 9.94A.030, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under section 302 of this act;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);
(xxi) Intimidating a Witness (RCW 9A.72.110);
(xxii) Tampering with a Witness (RCW 9A.72.120);
(xxiii) Reckless Endangerment (RCW 9A.36.050);
(xxiv) Coercion (RCW 9A.36.070);
(xxv) Harassment (RCW 9A.46.020); or
(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ((~~(33)~~)) (37)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

((~~(34)~~)) (38) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

((~~(35)~~)) (39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization

of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

((~~(36)~~)) (40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

((~~(37)~~)) (41) "Public school" has the same meaning as in RCW 28A.150.010.

((~~(38)~~)) (42) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

((~~(39)~~)) (43) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

((~~(40)~~)) (44) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

((~~(41)~~)) (45) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

((~~(42)~~)) (46) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130((~~(11)~~)) (12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

((~~(43)~~)) (47) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

((~~(44)~~)) (48) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

((~~(45)~~)) (49) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

((~~(46)~~)) (50) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

((~~(47)~~)) (51) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

((~~(48)~~)) (52) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

((~~(49)~~)) (53) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

((~~(50)~~)) (54) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(((~~(51)~~))) (55) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(((~~(52)~~))) (56) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(((~~(53)~~))) (57) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

PART IV
STATE PREEMPTION

NEW SECTION. **Sec. 401.** (1) The state of Washington hereby fully occupies and preempts the entire field of definitions used for purposes of substantive criminal law relating to criminal street gangs, criminal street gang-related offenses, criminal street gang associates and members, and pattern of criminal street gang activity. These definitions of "criminal street gang," "criminal street gang associate or member," "criminal street gang-related offense," and "pattern of criminal street gang activity" contained in RCW 9.94A.030 expressly preempt any conflicting city or county codes or ordinances. Cities, towns, counties, or other municipalities may enact laws and ordinances relating to criminal street gangs that contain definitions that are consistent with definitions pursuant to RCW 9.94A.030. Local laws and ordinances that are inconsistent with the definitions shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality.

(2) The preemption provided in this chapter does not apply to "gang" as defined in RCW 28A.600.455 under the common school provisions act or "gang" as defined in RCW 59.18.030 under the landlord-tenant act.

(3) The preemption provided for in this chapter does not restrict the adoption or use of a uniform state definition of "gang," "gang member," or "gang associate," for purposes of the creation and maintenance of the statewide gang database for law enforcement intelligence purposes under section 201 of this act.

PART V
TEMPORARY WITNESS RELOCATION PROGRAM

NEW SECTION. **Sec. 501.** A new section is added to chapter 43.31 RCW to read as follows:

The legislature recognizes that witnesses are often fearful of testifying against criminal gang members. Witnesses may be subject to harassment, intimidation, and threats. While the state does not ensure protection of witnesses, the state intends to provide resources to assist local prosecutors in combating gang-related crimes and to help citizens perform their civic duty to testify in these cases.

NEW SECTION. **Sec. 502.** A new section is added to chapter 43.31 RCW to read as follows:

(1) Subject to available funds, the department of community, trade, and economic development shall establish a temporary witness assistance grant program for witnesses of felony criminal street gang-related offenses. The department of community, trade, and economic development shall develop a formula for distributing temporary witness assistance grants and consideration shall primarily be given to those county prosecutors that show that there is a significant gang problem in their jurisdiction.

(2) As part of the temporary witness assistance grant program, the department of community, trade, and economic development shall work in collaboration with each local prosecuting attorney to determine how and how much grant funding shall be distributed in order to reimburse county prosecutors in assisting witnesses of felony gang-related offenses with temporary assistance, relocation, and shelter.

(3) Each temporary witness assistance grant awarded shall be limited to a maximum of five thousand dollars per witness of a felony criminal street gang-related offense or for a period of no more than three months.

(4) Based upon the prior approval of the department of community, trade, and economic development, approved county prosecutor costs incurred for providing temporary witness assistance shall be reimbursed to the respective county prosecutor's office on a quarterly basis.

(5) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages resulting from the temporary witness assistance program, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith.

NEW SECTION. **Sec. 503.** If specific funding for purposes of section 502 of this act, referencing section 502 of this act by bill or chapter and section number, is not provided by June 30, 2008, in the omnibus operating appropriations act, section 502 of this act is null and void.

PART VI
STUDY ON BEST PRACTICES TO REDUCE GANG INVOLVEMENT WHILE INCARCERATED

NEW SECTION. **Sec. 601.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall study and establish best practices to reduce gang involvement and recruitment among incarcerated offenders. The department shall study and make recommendations regarding the establishment of:

(a) Intervention programs within the institutions of the department for offenders who are seeking to opt out of gangs. The intervention programs shall include, but are not limited to, tattoo removal, anger management, GED, and other interventions; and

(b) An intervention program to assist gang members with successful reentry into the community.

(2) The department shall report to the legislature on its findings and recommendations by January 1, 2009.

PART VII
MISCELLANEOUS

NEW SECTION. **Sec. 701.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 702.** Part headings and subheadings used in this act are not any part of the law.

NEW SECTION. **Sec. 703.** Section 401 of this act constitutes a new chapter in Title 9 RCW.

NEW SECTION. **Sec. 704.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 277

[Substitute House Bill 2788]

FISH AND WILDLIFE—DEFINITIONS

AN ACT Relating to the organization of definitions in Title 77 RCW; reenacting and amending RCW 77.08.010; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The code reviser is directed to put the defined terms in RCW 77.08.010 in alphabetical order.

Sec. 2. RCW 77.08.010 and 2007 c 350 s 2 and 2007 c 254 s 1 are each reenacted and amended to read as follows:

((~~As used in~~)) The definitions in this section apply throughout this title or rules adopted under this title((~~,~~)) unless the context clearly requires otherwise((~~:~~)).

(1) "Director" means the director of fish and wildlife.

(2) "Department" means the department of fish and wildlife.

(3) "Commission" means the state fish and wildlife commission.

(4) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(5) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(6) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

(8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(9) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

(10) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(11) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(12) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(13) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(14) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(15) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(16) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(17) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species Rana catesbeiana (bullfrog). The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

(18) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(19) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(20) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(21) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(23) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(24) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(25) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(26) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(27) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(28) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(29) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

(30) "Senior" means a person seventy years old or older.

(31) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

(32) "Saltwater" means those marine waters seaward of river mouths.

(33) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

(34) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(35) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(36) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(37) "Resident" means:

(a) A person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state; and

(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.

(38) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(39) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(40) "Commercial" means related to or connected with buying, selling, or bartering.

(41) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

(42) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

(43) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(44) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

(45) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

(46) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

(47) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

(48) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

(49) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

(50) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

(51) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

(52) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

(53) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(54) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

(55) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (48) through (53) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(56) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

Passed by the House March 12, 2008.
Passed by the Senate March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 278

[House Bill 2791]

PROPERTY CONVEYANCES—DISTRESSED

AN ACT Relating to distressed property conveyances; amending RCW 61.34.020, 61.34.040, and 59.18.030; adding new sections to chapter 61.34 RCW; adding a new section to chapter 59.18 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 61.34.020 and 1988 c 33 s 4 are each amended to read as follows:

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

(1) ((~~"Pattern of equity skimming" means engaging in a least three acts of equity skimming within any three-year period, with at least one of the acts occurring after June 9, 1988.~~

~~(2) "Dwelling" means a single, duplex, triplex, or four-unit family residential building.~~

~~(3) "Person" includes any natural person, corporation, joint stock association, or unincorporated association.~~

~~(4)~~)) An "act of equity skimming" occurs when:

(a)(i) A person purchases a dwelling with the representation that the purchaser will pay for the dwelling by assuming the obligation to make payments on existing mortgages, deeds of trust, or real estate contracts secured by and pertaining to the dwelling, or by representing that such obligation will be assumed; and

(ii) The person fails to make payments on such mortgages, deeds of trust, or real estate contracts as the payments become due, within two years subsequent to the purchase; and

(iii) The person diverts value from the dwelling by either (A) applying or authorizing the application of rents from the dwelling for the person's own benefit or use, or (B) obtaining anything of value from the sale or lease with option to purchase of the dwelling for the person's own benefit or use, or (C) removing or obtaining appliances, fixtures, furnishings, or parts of such dwellings or appurtenances for the person's own benefit or use without replacing the removed items with items of equal or greater value; or

(b)(i) The person purchases a dwelling in a transaction in which all or part of the purchase price is financed by the seller and is (A) secured by a lien which is inferior in priority or subordinated to a lien placed on the dwelling by the purchaser, or (B) secured by a lien on other real or personal property, or (C) without any security; and

(ii) The person obtains a superior priority loan which either (A) is secured by a lien on the dwelling which is superior in priority to the lien of the seller, but not including a bona fide assumption by the purchaser of a loan existing prior to the time of purchase, or (B) creating any lien or encumbrance on the dwelling when the seller does not hold a lien on the dwelling; and

(iii) The person fails to make payments or defaults on the superior priority loan within two years subsequent to the purchase; and

(iv) The person diverts value from the dwelling by applying or authorizing any part of the proceeds from such superior priority loan for the person's own benefit or use.

(2) "Distressed home" means either:

(a) A dwelling that is in danger of foreclosure or at risk of loss due to nonpayment of taxes; or

(b) A dwelling that is in danger of foreclosure or that is in the process of being foreclosed due to a default under the terms of a mortgage.

(3) "Distressed home consultant" means a person who:

(a) Solicits or contacts a distressed homeowner in writing, in person, or through any electronic or telecommunications medium and makes a representation or offer to perform any service that the person represents will:

(i) Stop, enjoin, delay, void, set aside, annul, stay, or postpone a foreclosure sale;

(ii) Obtain forbearance from any servicer, beneficiary, or mortgagee;

(iii) Assist the distressed homeowner to exercise a right of reinstatement provided in the loan documents or to refinance a loan that is in foreclosure or is in danger of foreclosure;

(iv) Obtain an extension of the period within which the distressed homeowner may reinstate the distressed homeowner's obligation or extend the deadline to object to a ratification;

(v) Obtain a waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a distressed home or contained in the mortgage;

(vi) Assist the distressed homeowner to obtain a loan or advance of funds;

(vii) Save the distressed homeowner's residence from foreclosure;

(viii) Avoid or ameliorate the impairment of the distressed homeowner's credit resulting from the recording of a notice of trustee sale, the filing of a petition to foreclose, or the conduct of a foreclosure sale;

(ix) Purchase or obtain an option to purchase the distressed homeowner's residence within twenty days of an advertised or docketed foreclosure sale;

(x) Arrange for the distressed homeowner to become a lessee or tenant entitled to continue to reside in the distressed homeowner's residence;

(xi) Arrange for the distressed homeowner to have an option to repurchase the distressed homeowner's residence; or

(xii) Engage in any documentation, grant, conveyance, sale, lease, trust, or gift by which the distressed homeowner clogs the distressed homeowner's equity of redemption in the distressed homeowner's residence; or

(b) Systematically contacts owners of property that court records, newspaper advertisements, or any other source demonstrate are in foreclosure or are in danger of foreclosure.

"Distressed home consultant" does not mean a financial institution, a nonprofit credit counseling service, a licensed attorney, or a person subject to chapter 19.148 RCW. "Distressed home consultant" does not include a licensed mortgage broker who, pursuant to lawful activities under chapter 19.146 RCW, procures a nonpurchase mortgage loan for the distressed homeowner from a financial institution.

(4) "Distressed home consulting transaction" means an agreement between a distressed homeowner and a distressed home consultant in which the distressed home consultant represents or offers to perform any of the services enumerated in subsection (3)(a) of this section.

(5) "Distressed home conveyance" means a transaction in which:

(a) A distressed homeowner transfers an interest in the distressed home to a distressed home purchaser;

(b) The distressed home purchaser allows the distressed homeowner to occupy the distressed home; and

(c) The distressed home purchaser or a person acting in participation with the distressed home purchaser conveys or promises to convey the distressed home to the distressed homeowner, provides the distressed homeowner with an option to purchase the distressed home at a later date, or promises the distressed homeowner an interest in, or portion of, the proceeds of any resale of the distressed home.

(6) "Distressed home purchaser" means any person who acquires an interest in a distressed home under a distressed home conveyance. "Distressed home purchaser" includes a person who acts in joint venture or joint enterprise with one or more distressed home purchasers in a distressed home conveyance. A financial institution is not a distressed home purchaser.

(7) "Distressed homeowner" means an owner of a distressed home.

(8) "Dwelling" means a single, duplex, triplex, or four-unit family residential building.

(9) "Financial institution" means (a) any bank or trust company, mutual savings bank, savings and loan association, credit union, or a lender making federally related mortgage loans, (b) a holder in the business of acquiring federally related mortgage loans as defined in the real estate settlement procedures act (RESPA) (12 U.S.C. Sec. 2602), insurance company, insurance producer, title insurance company, escrow company, or lender subject to auditing by the federal national mortgage association or the federal home loan mortgage corporation, which is organized or doing business pursuant to the laws of any state, federal law, or the laws of a foreign country, if also authorized to conduct business in Washington state pursuant to the laws of this state or federal law, (c) any affiliate or subsidiary of any of the entities listed in (a) or (b) of this subsection, or (d) an employee or agent acting on behalf of any of the entities listed in (a) or (b) of this subsection. "Financial institution" also means a licensee under chapter 31.04 RCW, provided that the licensee does not include a licensed mortgage broker, unless the mortgage broker is engaged in lawful activities under chapter 19.146 RCW and procures a nonpurchase mortgage loan for the distressed homeowner from a financial institution.

(10) "Homeowner" means a person who owns and occupies a dwelling as his or her primary residence, whether or not his or her ownership interest is encumbered by a mortgage, deed of trust, or other lien.

(11) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold, the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed home consulting transaction.

(12) "Mortgage" means a mortgage, mortgage deed, deed of trust, security agreement, or other instrument securing a mortgage loan and constituting a lien on or security interest in housing.

(13) "Nonprofit credit counseling service" means a nonprofit organization described under section 501(c)(3) of the internal revenue code, or similar successor provisions, that is licensed or certified by any federal, state, or local agency.

(14) "Pattern of equity skimming" means engaging in at least three acts of equity skimming within any three-year period, with at least one of the acts occurring after June 9, 1988.

(15) "Person" includes any natural person, corporation, joint stock association, or unincorporated association.

(16) "Resale" means a bona fide market sale of the distressed home subject to the distressed home conveyance by the distressed home purchaser to an unaffiliated third party.

(17) "Resale price" means the gross sale price of the distressed home on resale.

NEW SECTION. **Sec. 2.** (1) A distressed home consulting transaction must:

(a) Be in writing in at least twelve-point font;

(b) Be in the same language as principally used by the distressed home consultant to describe his or her services to the distressed homeowner. If the agreement is written in a language other than English, the distressed home consultant shall cause the agreement to be translated into English and shall deliver copies of both the original and English language versions to the distressed homeowner at the time of execution and shall keep copies of both versions on file in accordance with subsection (2) of this section. Any ambiguities or inconsistencies between the English language and the original language versions of the written agreement must be strictly construed in favor of the distressed homeowner;

(c) Fully disclose the exact nature of the distressed home consulting services to be provided, including any distressed home conveyance that may be involved and the total amount and terms of any compensation to be received by the distressed home consultant or anyone working in association with the distressed home consultant;

(d) Be dated and signed by the distressed homeowner and the distressed home consultant;

(e) Contain the complete legal name, address, telephone number, fax number, e-mail address, and internet address if any, of the distressed home consultant, and if the distressed home consultant is serving as an agent for any other person, the complete legal name, address, telephone number, fax number, e-mail address, and internet address if any, of the principal; and

(f) Contain the following notice, which must be initialed by the distressed homeowner, in bold face type and in at least fourteen-point font:

"NOTICE REQUIRED BY WASHINGTON LAW

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME.

. . . Name of distressed home consultant . . . or anyone working for him or her CANNOT guarantee you that he or she will be able to refinance your home or arrange for you to keep your home. Continue making mortgage payments

until refinancing, if applicable, is approved. You should consult with an attorney before signing this contract.

If you sign a promissory note, lien, mortgage, deed of trust, or deed, you could lose your home and be unable to get it back."

(2) At the time of execution, the distressed home consultant shall provide the distressed homeowner with a copy of the written agreement, and the distressed home consultant shall keep a separate copy of the written agreement on file for at least five years following the completion or other termination of the agreement.

(3) This section does not relieve any duty or obligation imposed upon a distressed home consultant by any other law including, but not limited to, the duties of a credit service organization under chapter 19.134 RCW or a person required to be licensed under chapter 19.146 RCW.

NEW SECTION. **Sec. 3.** A distressed home consultant has a fiduciary relationship with the distressed homeowner, and each distressed home consultant is subject to all requirements for fiduciaries otherwise applicable under state law. A distressed home consultant's fiduciary duties include, but are not limited to, the following:

(1) To act in the distressed homeowner's best interest and in utmost good faith toward the distressed homeowner, and not compromise a distressed homeowner's right or interest in favor of another's right or interest, including a right or interest of the distressed home consultant;

(2) To disclose to the distressed homeowner all material facts of which the distressed home consultant has knowledge that might reasonably affect the distressed homeowner's rights, interests, or ability to receive the distressed homeowner's intended benefit from the residential mortgage loan;

(3) To use reasonable care in performing his or her duties; and

(4) To provide an accounting to the distressed homeowner for all money and property received from the distressed homeowner.

NEW SECTION. **Sec. 4.** (1) A person may not induce or attempt to induce a distressed homeowner to waive his or her rights under this chapter.

(2) Any waiver by a homeowner of the provisions of this chapter is void and unenforceable as contrary to public policy.

NEW SECTION. **Sec. 5.** A distressed home purchaser shall enter into a distressed home reconveyance in the form of a written contract. The contract must be written in at least twelve-point boldface type in the same language principally used by the distressed home purchaser and distressed homeowner to negotiate the sale of the distressed home, and must be fully completed, signed, and dated by the distressed homeowner and distressed home purchaser before the execution of any instrument of conveyance of the distressed home.

NEW SECTION. **Sec. 6.** The contract required in section 5 of this act must contain the entire agreement of the parties and must include the following:

(1) The name, business address, and telephone number of the distressed home purchaser;

(2) The address of the distressed home;

(3) The total consideration to be provided by the distressed home purchaser in connection with or incident to the sale;

(4) A complete description of the terms of payment or other consideration including, but not limited to, any services of any nature that the distressed home purchaser represents that he or she will perform for the distressed homeowner before or after the sale;

(5) The time at which possession is to be transferred to the distressed home purchaser;

(6) A complete description of the terms of any related agreement designed to allow the distressed homeowner to remain in the home, such as a rental agreement, repurchase agreement, or lease with option to buy;

(7) A complete description of the interest, if any, the distressed homeowner maintains in the proceeds of, or consideration to be paid upon, the resale of the distressed home;

(8) A notice of cancellation as provided in section 8 of this act; and

(9) The following notice in at least fourteen-point boldface type if the contract is printed, or in capital letters if the contract is typed, and completed with the name of the distressed home purchaser, immediately above the statement required in section 8 of this act;

"NOTICE REQUIRED BY WASHINGTON LAW

Until your right to cancel this contract has ended, ... (Name) or anyone working for . . . . . (Name) CANNOT ask you to sign or have you sign any deed or any other document."

The contract required by this section survives delivery of any instrument of conveyance of the distressed home and has no effect on persons other than the parties to the contract.

NEW SECTION. **Sec. 7.** (1) In addition to any other right of rescission, a distressed homeowner has the right to cancel any contract with a distressed home purchaser until midnight of the fifth business day following the day on which the distressed homeowner signs a contract that complies with this chapter or until 8:00 a.m. on the last day of the period during which the distressed homeowner has a right of redemption, whichever occurs first.

(2) Cancellation occurs when the distressed homeowner delivers to the distressed home purchaser, by any means, a written notice of cancellation to the address specified in the contract.

(3) A notice of cancellation provided by the distressed homeowner is not required to take the particular form as provided with the contract.

(4) Within ten days following the receipt of a notice of cancellation under this section, the distressed home purchaser shall return without condition any original contract and any other documents signed by the distressed homeowner.

NEW SECTION. **Sec. 8.** (1) The contract required in section 5 of this act must contain, in immediate proximity to the space reserved for the distressed homeowner's signature, the following conspicuous statement in at least fourteen-point boldface type if the contract is printed, or in capital letters if the contract is typed:

"You may cancel this contract for the sale of your house without any penalty or obligation at any time before

. . . . . .
(Date and time of day)

See the attached notice of cancellation form for an explanation of this right."

The distressed home purchaser shall accurately enter the date and time of day on which the cancellation right ends.

(2) The contract must be accompanied by a completed form in duplicate, captioned "NOTICE OF CANCELLATION" in twelve-point boldface type if the contract is printed, or in capital letters if the contract is typed, followed by a space in which the distressed home purchaser shall enter the date on which the distressed homeowner executes any contract. This form must be attached to the contract, must be easily detachable, and must contain in at least twelve-point type if the contract is printed, or in capital letters if the contract is typed, the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

. . . . . .
(Enter date contract signed)
You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before

. . . . . .
(Enter date and time of day)
To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice to

. . . . . .
(Name of purchaser)
at

. . . . . .
(Street address of purchaser's place of business)
NOT LATER THAN

. . . . . .
(Enter date and time of day)
I hereby cancel this transaction.

. . . . . .
(Date)

. . . . . .
(Seller's signature)"

(3) The distressed home purchaser shall provide the distressed homeowner with a copy of the contract and the attached notice of cancellation at the time the contract is executed by all parties.

(4) The five-business-day period during which the distressed homeowner may cancel the contract must not begin to run until all parties to the contract

have executed the contract and the distressed home purchaser has complied with this section.

NEW SECTION. **Sec. 9.** (1) Any provision in a contract that attempts or purports to require arbitration of any dispute arising under this chapter is void at the option of the distressed homeowner.

(2) This section applies to any contract entered into on or after the effective date of this act.

NEW SECTION. **Sec. 10.** A distressed home purchaser shall not:

(1) Enter into, or attempt to enter into, a distressed home conveyance with a distressed homeowner unless the distressed home purchaser verifies and can demonstrate that the distressed homeowner has a reasonable ability to pay for the subsequent conveyance of an interest back to the distressed homeowner. In the case of a lease with an option to purchase, payment ability also includes the reasonable ability to make the lease payments and purchase the property within the term of the option to purchase. An evaluation of a distressed homeowner's reasonable ability to pay includes debt to income ratios, fair market value of the distressed home, and the distressed homeowner's payment and credit history. There is a rebuttable presumption that the distressed home purchaser has not verified a distressed homeowner's reasonable ability to pay if the distressed home purchaser has not obtained documentation of assets, liabilities, and income, other than an undocumented statement, of the distressed homeowner;

(2) Fail to either:

(a) Ensure that title to the distressed home has been reconveyed to the distressed homeowner; or

(b) Make payment to the distressed homeowner so that the distressed homeowner has received consideration in an amount of at least eighty-two percent of the fair market value of the property as of the date of the eviction or voluntary relinquishment of possession of the distressed home by the distressed homeowner. For the purposes of this subsection (2)(b), the following applies:

(i) There is a rebuttable presumption that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate constitutes the fair market value of the distressed home;

(ii) "Consideration" means any payment or thing of value provided to the distressed homeowner, including unpaid rent owed by the distressed homeowner before the date of eviction or voluntary relinquishment of the distressed home, reasonable costs paid to independent third parties necessary to complete the distressed home conveyance transaction, the payment of money to satisfy a debt or legal obligation of the distressed homeowner, or the reasonable cost of repairs for damage to the distressed home caused by the distressed homeowner. "Consideration" does not include amounts imputed as a down payment or fee to the distressed home purchaser or a person acting in participation with the distressed home purchaser;

(3) Enter into repurchase or lease terms as part of the distressed home conveyance that are unfair or commercially unreasonable, or engage in any other unfair or deceptive acts or practices;

(4) Represent, directly or indirectly, that (a) the distressed home purchaser is acting as an advisor or consultant, (b) the distressed home purchaser is acting on behalf of or in the interests of the distressed homeowner, or (c) the distressed

home purchaser is assisting the distressed homeowner to save the distressed home, buy time, or use other substantially similar language;

(5) Misrepresent the distressed home purchaser's status as to licensure or certification;

(6) Perform any of the following until after the time during which the distressed homeowner may cancel the transaction has expired:

(a) Accept from any distressed homeowner an execution of, or induce any distressed homeowner to execute, any instrument of conveyance of any interest in the distressed home;

(b) Record with the county auditor any document, including any instrument of conveyance, signed by the distressed homeowner; or

(c) Transfer or encumber or purport to transfer or encumber any interest in the distressed home;

(7) Fail to reconvey title to the distressed home when the terms of the distressed home conveyance contract have been fulfilled;

(8) Enter into a distressed home conveyance where any party to the transaction is represented by a power of attorney;

(9) Fail to extinguish or assume all liens encumbering the distressed home immediately following the conveyance of the distressed home;

(10) Fail to close a distressed home conveyance in person before an independent third party who is authorized to conduct real estate closings within the state.

Sec. 11. RCW 61.34.040 and 1988 c 33 s 3 are each amended to read as follows:

(1) In addition to the criminal penalties provided in RCW 61.34.030, the legislature finds ((~~and declares~~)) that ((~~equity skimming substantially affects~~)) the practices covered by this chapter are matters vitally affecting the public interest((~~. The commission by any person of an act of equity skimming or a pattern of equity skimming is an unfair or deceptive act or practice and unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020~~)) for the purpose of applying chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair method of competition for the purpose of applying chapter 19.86 RCW.

(2) In a private right of action under chapter 19.86 RCW for a violation of this chapter, the court may double or triple the award of damages pursuant to RCW 19.86.090, subject to the statutory limit. If, however, the court determines that the defendant acted in bad faith, the limit for doubling or tripling the award of damages may be increased, but shall not exceed one hundred thousand dollars. Any claim for damages brought under this chapter must be commenced within four years after the date of the alleged violation.

(3) The remedies provided in this chapter are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law. An action under this chapter shall not affect the rights in the distressed home held by a distressed home purchaser for value under this chapter or other applicable law.

Sec. 12. RCW 59.18.030 and 1998 c 276 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Distressed home" has the same meaning as in RCW 61.34.020.

(2) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(3) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(4) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single family residences and units of multiplexes, apartment buildings, and mobile homes.

(((~~(2)~~))) (5) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(6) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the landlord.

(((~~(3)~~))) (7) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(8) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(((~~(4)~~))) (9) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(((~~(5)~~))) (10) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

((~~(6)~~)) (11) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

((~~(7)~~)) (12) A "single family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

((~~(8)~~)) (13) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

((~~(9)~~)) (14) "Reasonable attorney's fees", where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

((~~(10)~~)) (15) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

((~~(11)~~)) (16) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

NEW SECTION. **Sec. 13.** A new section is added to chapter 59.18 RCW to read as follows:

In an unlawful detainer action involving property that was a distressed home:

(1) The plaintiff shall disclose to the court whether the defendant previously held title to the property that was a distressed home, and explain how the plaintiff came to acquire title;

(2) A defendant who previously held title to the property that was a distressed home shall not be required to escrow any money pending trial when a material question of fact exists as to whether the plaintiff acquired title from the defendant directly or indirectly through a distressed home conveyance;

(3) There must be both an automatic stay of the action and a consolidation of the action with a pending or subsequent quiet title action when a defendant claims that the plaintiff acquired title to the property through a distressed home conveyance.

NEW SECTION. **Sec. 14.** Sections 2 through 10 of this act are each added to chapter 61.34 RCW.

Passed by the House March 12, 2008.

Passed by the Senate March 11, 2008.

Approved by the Governor March 31, 2008.

Filed in Office of Secretary of State April 1, 2008.

CHAPTER 279

[Second Substitute House Bill 2822]

FAMILY AND JUVENILE COURT IMPROVEMENT PROGRAM

AN ACT Relating to the family and juvenile court improvement program; amending RCW 2.56.030; adding new sections to chapter 2.56 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 2.56 RCW to read as follows:

Subject to the availability of funds appropriated therefor, the family and juvenile court improvement grant program is created.

(1) The purpose of the program is to assist superior courts in improving their family and juvenile court systems, especially in dependency cases, with the goals of:

(a) Assuring a stable and well-trained judiciary in family and juvenile law providing consistency of judicial officers hearing all of the proceedings in a case involving one family, especially in dependency cases; and

(b) Ensuring judicial accountability in implementing specific principles and practices for family and juvenile court.

(2) The administrator for the courts shall develop and administer the program subject to requirements in section 2 of this act. As part of administering the program, the administrator for the courts shall define appropriate outcome measures, collect data, and gather information from courts receiving grants.

NEW SECTION. **Sec. 2.** A new section is added to chapter 2.56 RCW to read as follows:

(1) A superior court may apply for grants from the family and juvenile court improvement grant program by submitting a local improvement plan with the administrator for the courts. To be eligible for grant funds, a superior court's local improvement plan must meet the criteria developed by the administrator for the courts and approved by the board for judicial administration. The criteria must be consistent with the principles adopted for unified family courts. At a minimum, the criteria must require that the court's local improvement plan meet the following requirements:

(a) Commit to a chief judge assignment to the family and juvenile court for a minimum of two years;

(b) Implementation of the principle of one judicial team hearing all of the proceedings in a case involving one family, especially in dependency cases;

(c) Require court commissioners and judges assigned to family and juvenile court to receive a minimum of thirty hours specialized training in topics related to family and juvenile matters within six months of assuming duties in family and juvenile court. Where possible, courts should utilize local, statewide, and national training forums. A judicial officer's recorded educational history may be applied toward the thirty-hour requirement. The topics for training must include:

(i) Parentage;

(ii) Adoption;

(iii) Domestic relations;

(iv) Dependency and termination of parental rights;

(v) Child development;

(vi) The impact of child abuse and neglect;
(vii) Domestic violence;
(viii) Substance abuse;
(ix) Mental health;
(x) Juvenile status offenses;
(xi) Juvenile offenders;
(xii) Self-representation issues;
(xiii) Cultural competency;
(xiv) Roles of family and juvenile court judges and commissioners; and

(d) As part of the application for grant funds, submit a spending proposal detailing how the superior court would use the grant funds.

(2) Courts receiving grant money must use the funds to improve and support family and juvenile court operations based on standards developed by the administrator for the courts and approved by the board for judicial administration. The standards may allow courts to use the funds to:

(a) Pay for family and juvenile court training of commissioners and judges or pay for pro tem commissioners and judges to assist the court while the commissioners and judges receive training;

(b) Increase judicial and nonjudicial staff, including administrative staff to improve case coordination and referrals in family and juvenile cases, guardian ad litem volunteers or court-appointed special advocates, security, and other staff;

(c) Improve the court facility to better meet the needs of children and families;

(d) Improve referral and treatment options for court participants, including enhancing court facilitator programs and family treatment court and increasing the availability of alternative dispute resolution;

(e) Enhance existing family and children support services funded by the courts and expand access to social service programs for families and children ordered by the court; and

(f) Improve or support family and juvenile court operations in any other way deemed appropriate by the administrator for the courts.

(3) The administrator for the courts shall allocate available grant moneys based upon the needs of the court as expressed in their local improvement plan.

(4) Money received by the superior court under this program must be used to supplement, not supplant, any other local, state, and federal funds for the court.

(5) Upon receipt of grant funds, the superior court shall submit to the administrator for the courts a spending plan detailing the use of funds. At the end of the fiscal year, the superior court shall submit to the administrator for the courts a financial report comparing the spending plan to actual expenditures. The administrator for the courts shall compile the financial reports and submit them to the appropriate committees of the legislature.

Sec. 3. RCW 2.56.030 and 2007 c 496 s 302 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and

make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district court judge positions under an objective workload analysis. The results of the objective workload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that an objective workload analysis become the basis for creating additional district and superior court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008,

and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21) Administer the family and juvenile court improvement grant program;

(22)(a) Administer and distribute amounts appropriated from the equal justice subaccount under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 12, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 280

[Engrossed Second Substitute House Bill 3139]
INDUSTRIAL INSURANCE—BENEFITS—APPEAL

AN ACT Relating to industrial insurance benefits on appeal; amending RCW 51.52.050 and 51.32.240; adding a new section to chapter 51.32 RCW; adding a new section to chapter 51.44 RCW; adding a new section to chapter 51.52 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.52.050 and 2004 c 243 s 8 are each amended to read as follows:

(1) Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia((: ~~PROVIDED, That~~)). However, a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

(2)(a) Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal((: ~~PROVIDED, That~~)).

(b) An order by the department awarding benefits shall become effective and benefits due on the date issued. Subject to (b)(i) and (ii) of this subsection, if the department order is appealed the order shall not be stayed pending a final decision on the merits unless ordered by the board. Upon issuance of the order granting the appeal, the board will provide the worker with notice concerning the potential of an overpayment of benefits paid pending the outcome of the appeal and the requirements for interest on unpaid benefits pursuant to RCW 51.52.135. A worker may request that benefits cease pending appeal at any time following the employer's motion for stay or the board's order granting appeal. The request

must be submitted in writing to the employer, the board, and the department. Any employer may move for a stay of the order on appeal, in whole or in part. The motion must be filed within fifteen days of the order granting appeal. The board shall conduct an expedited review of the claim file provided by the department as it existed on the date of the department order. The board shall issue a final decision within twenty-five days of the filing of the motion for stay or the order granting appeal, whichever is later. The board's final decision may be appealed to superior court in accordance with RCW 51.52.110. The board shall grant a motion to stay if the moving party demonstrates that it is more likely than not to prevail on the facts as they existed at the time of the order on appeal. The board shall not consider the likelihood of recoupment of benefits as a basis to grant or deny a motion to stay. If a self-insured employer prevails on the merits, any benefits paid may be recouped pursuant to RCW 51.32.240.

(i) If upon reconsideration requested by a worker or medical provider, the department has ordered an increase in a permanent partial disability award from the amount reflected in an earlier order, the award reflected in the earlier order shall not be stayed pending a final decision on the merits. However, the increase is stayed without further action by the board pending a final decision on the merits.

(ii) If any party appeals an order establishing a worker's wages or the compensation rate at which a worker will be paid temporary or permanent total disability or loss of earning power benefits, the worker shall receive payment pending a final decision on the merits based on the following:

(A) When the employer is self-insured, the wage calculation or compensation rate the employer most recently submitted to the department; or

(B) When the employer is insured through the state fund, the highest wage amount or compensation rate uncontested by the parties.

Payment of benefits or consideration of wages at a rate that is higher than that specified in (b)(ii)(A) or (B) of this subsection is stayed without further action by the board pending a final decision on the merits.

(c) In an appeal from an order of the department that alleges willful misrepresentation, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

Sec. 2. RCW 51.32.240 and 2004 c 243 s 7 are each amended to read as follows:

(1)(a) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3), (4), and (5) of this section, the department may only assess an overpayment of benefits because of adjudicator error when the order upon which the overpayment is based is not yet final as

provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department or self-insurer fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the state fund or by the self-insurer, as the case may be, subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefore has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department of labor and industries or an appeal with the board of industrial insurance appeals within sixty days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever the department issues an order rejecting a claim for benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for temporary disability benefits has been paid by a self-insurer pursuant to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the recipient thereof shall repay such benefits and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, under rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(4) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim ((~~with the state fund or self-insurer, as the case may be~~)) whether state fund or self-insured.

(a) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise ((~~his~~)) discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience. However, if the director waives in whole or in part any such payments due a self-insurer, the self-insurer shall be reimbursed the amount waived from the self-insured employer overpayment reimbursement fund.

(b) The department shall collect information regarding self-insured claim overpayments resulting from final decisions of the board and the courts, and

recoup such overpayments on behalf of the self-insurer from any open, new, or reopened state fund or self-insured claims. The department shall forward the amounts collected to the self-insurer to whom the payment is owed. The department may provide information as needed to any self-insurers from whom payments may be collected on behalf of the department or another self-insurer. Notwithstanding RCW 51.32.040, any self-insurer requested by the department to forward payments to the department pursuant to this subsection shall pay the department directly. The department shall credit the amounts recovered to the appropriate fund, or forward amounts collected to the appropriate self-insurer, as the case may be.

(c) If a self-insurer is not fully reimbursed within twenty-four months of the first attempt at recovery through the collection process pursuant to this subsection and by means of processes pursuant to subsection (6) of this section, the self-insurer shall be reimbursed for the remainder of the amount due from the self-insured employer overpayment reimbursement fund.

(d) For purposes of this subsection, "recipient" does not include health service providers whose treatment or services were authorized by the department or self-insurer.

(e) The department or self-insurer shall first attempt recovery of overpayments for health services from any entity that provided health insurance to the worker to the extent that the health insurance entity would have provided health insurance benefits but for workers' compensation coverage.

(5)(a) Whenever any payment of benefits under this title has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the willful misrepresentation was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

(b) For purposes of this subsection (5), it is willful misrepresentation for a person to obtain payments or other benefits under this title in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (5), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this title.

(d) For purposes of this subsection (5), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (5), a material fact is one which would result in additional, increased, or continued benefits, including but not limited to facts about physical restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be

reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages pursuant to RCW 51.08.178(4).

(6) The worker, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (5) of this section, the director, director's designee, or self-insurer may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the worker, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the worker, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department or self-insurer in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the worker, beneficiary, or other person within three days of filing with the clerk.

The director, director's designee, or self-insurer may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any worker, beneficiary, or other person upon whom a warrant has been served for payments due the department or self-insurer. The notice and order to withhold and deliver shall be served by certified mail accompanied by an affidavit of service by mailing or served by the sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director, director's designee, or self-insurer. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served

with such notice and order, any property that may be subject to the claim of the department or self-insurer, such property shall be delivered forthwith to the director, the director's authorized representative, or self-insurer upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director, director's designee, or self-insurer in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991: PROVIDED, That this subsection shall apply retroactively to all orders assessing an overpayment resulting from fraud, civil or criminal.

(7) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department or self-insurer.

NEW SECTION. **Sec. 3.** A new section is added to chapter 51.32 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, each self-insured employer shall retain from the earnings of each of its workers that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. These moneys shall only be retained from employees and remitted to the department in such manner and at such intervals as the department directs and shall be placed in the self-insured employer overpayment reimbursement fund. The moneys so collected shall be used exclusively for reimbursement to the reserve fund and to self-insured employers for benefits overpaid during the pendency of board or court appeals in which the self-insured employer prevails and has not recovered, and shall be no more than necessary to make such payments on a current basis.

(2) None of the amount assessed for the employer overpayment reimbursement fund under this section may be retained from the earnings of workers covered under RCW 51.16.210.

NEW SECTION. **Sec. 4.** A new section is added to chapter 51.44 RCW to read as follows:

The self-insured employer overpayment reimbursement fund is created in the custody of the state treasurer. Expenditures from the account may be used only for reimbursing the reserve fund and self-insured employers for benefits overpaid during the pendency of board or court appeals in which the self-insured employer prevails and has not recovered. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 5.** A new section is added to chapter 51.52 RCW to read as follows:

(1) The department shall study appeals of workers' compensation cases and collect information on the impacts of this act on state fund and self-insured

workers and employers. The study shall consider the types of benefits that may be paid pending an appeal, and shall include, but not be limited to:

(a) The frequency and outcomes of appeals;

(b) The duration of appeals and any procedural or process changes made by the board to implement this act and expedite the process;

(c) The number of and amount of overpayments resulting from decisions of the board or court; and

(d) The processes used and efforts made to recoup overpayments and the results of those efforts.

(2) State fund and self-insured employers shall provide the information requested by the department to conduct the study.

(3) The department shall report to the workers' compensation advisory committee by July 1, 2009, on the preliminary results of the study. By December 1, 2009, and annually thereafter, with the final report due by December 1, 2011, the department shall report to the workers' compensation advisory committee and the appropriate committees of the legislature on the results of the study. The workers' compensation advisory committee shall provide its recommendations for addressing overpayments resulting from this act, including the need for and ability to fund a permanent method to reimburse employer and state fund overpayment costs.

NEW SECTION. **Sec. 6.** Section 2 of this act takes effect January 1, 2009.

NEW SECTION. **Sec. 7.** This act applies to orders issued on or after the effective date of this section.

Passed by the House March 13, 2008.
Passed by the Senate March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 281

[Engrossed Second Substitute House Bill 3145]

FOSTER CARE—INTENSIVE RESOURCE HOME PILOT

AN ACT Relating to implementing a program of tiered classification for foster parent licensing; adding new sections to chapter 74.13 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW to read as follows:

The legislature finds that out-of-home care providers are an essential partner in the child welfare system, with responsibility for the care of vulnerable children whose families are unable to meet their needs. Because children who enter the out-of-home care system have experienced varying degrees of stress and trauma before placement, providers sometimes are called upon to provide care for children with significant behavioral challenges and intensive developmental needs. Other children who enter out-of-home care may require extraordinary care due to health care needs or medical fragility. The legislature also finds that providers with specialized skills and experience, or professional training and expertise, can contribute significantly to a child's well-being by promoting placement stability and supporting the child's developmental growth

while in out-of-home care. The legislature intends to implement an intensive resource home pilot to enhance the continuum of care options and to promote permanency and positive outcomes for children served in the child welfare system by authorizing the department to contract for intensive resource home services on a pilot basis.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The department shall select two geographic areas with high concentrations of children with significant needs in out-of-home care for implementing an intensive resource home pilot. In choosing the pilot sites, the department shall: (a) Examine areas where there are concentrations of children with significant behavioral challenges and intensive developmental or medical needs who are being served in family foster homes; (b) consider sites of appropriate size that will allow for careful analysis of the impact of the intensive resource home pilot on the array of out-of-home care providers, including providers of behavioral rehabilitation services; and (c) determine the number of children to be served in these selected sites. Implementation of the program at the pilot sites also shall be structured to support the long-term goal of eventual expansion of the pilot statewide.

(2) Based on the information gathered by the work group convened under chapter 413, Laws of 2007, and the additional information gathered pursuant to this section, the department shall work collaboratively in:

(a) Seeking recommendations from foster parents and other out-of-home service providers, including child placing agencies, regarding the qualifications and requirements of intensive resource home providers, the needs of the children to be served, and the desired outcomes to be measured or monitored at the respective pilot sites; and

(b) Consulting with experts in child welfare, children's mental health, and children's health care to identify the evidence-based or promising practice models to be employed in the pilot and the appropriate supports to ensure program fidelity, including, but not limited to, the necessary training and clinical consultation and oversight to be provided to intensive resource homes.

(3) Using the recommendations from foster parents, the consultations with professionals as required in subsection (2)(a) and (b) of this section, and the information provided in the report to the legislature under chapter 413, Laws of 2007, including the information presented to the work group convened to prepare and present the report, the department shall implement the pilot by entering into contracts with no more than seventy-five providers who are determined by the department to meet the eligibility criteria for the intensive resource home pilot. The department shall:

(a) Define the criteria for intensive resource home providers, which shall include a requirement that the provider be licensed by the department as a foster parent, as well as meet additional requirements relating to relevant experience, education, training, and professional expertise necessary to meet the high needs of children identified as eligible for this pilot;

(b) Define criteria for identifying children with high needs who may be eligible for placement with an intensive resource home provider. Such criteria shall be based on the best interests of the child and include an assessment of the child's past and current level of functioning as well as a determination that the

child's treatment plan and developmental needs are consistent with the placement plan;

(c) Establish a policy for placement of children with high needs in intensive resource homes, including a process for matching the child's needs with the provider's skills and expertise;

(d) Establish a limit on the number and ages of children with high needs that may be placed in an intensive resource home pursuant to the pilot contract. Such limitation shall recognize that children with externalizing behaviors are most likely to experience long-term improvements in their behavior when care is provided in settings that minimize exposure to peers with challenging behaviors;

(e) Identify one or more approved models of skill building for use by intensive resource home providers, with the assistance of other child welfare experts;

(f) Specify the training and consultation requirements that support the models of service;

(g) Establish a system of supports, including clinical consultation and oversight for intensive resource homes;

(h) Develop a tiered payment system, by September 30, 2008, which may include a stipend to the provider, which takes into account the additional responsibilities intensive resource home providers have with regard to the children placed in their care. Until such time as the department has developed the tiered payment system, money for exceptional cost plans shall be used only for special services or supplies provided to the child and shall not be used to reimburse the provider for services he or she provides to the child. A stipend of not more than five hundred dollars per month may be used to reimburse the provider for services he or she provides directly to the child;

(i) Establish clearly defined responsibilities of intensive resource home providers, who have an intensive resource home contract including responsibilities to promote permanency and connections with birth parents; and

(j) Develop a process for annual performance reviews of intensive resource home providers.

(4) Contracts between the department and an intensive resource home provider shall include a statement of work focusing on achieving stability in placement and measuring improved permanency outcomes and shall specify at least the following elements:

(a) The model of treatment and care to be provided;

(b) The training and ongoing professional consultation to be provided;

(c) The method for determining any additional supports to be provided to an eligible child or the intensive resource home provider;

(d) The desired outcomes to be measured;

(e) A reasonable and efficient process for seeking a modification of the contract;

(f) The rate and terms of payment under the contract; and

(g) The term of the contract and the processes for an annual performance review of the intensive resource home provider and an annual assessment of the child.

(5) Beginning on or before October 1, 2008, the department shall begin the selection of, and negotiation of contracts with, intensive resource home providers in the selected pilot sites.

(6) Nothing in this act gives a provider eligible under this section the right to a contract under the intensive resource home pilot, and nothing in this act gives a provider that has a contract under the pilot a right to have a child or children placed in the home pursuant to the contract.

(7) "Intensive resource home provider" means a provider who meets the eligibility criteria developed by the department under this section and who has an intensive resource home pilot contract with the department.

(8) The department shall report to the governor and the legislature by January 30, 2009, on the implementation of the pilot, including how the pilot fits within the continuum of out-of-home care options. Based on the experiences and lessons learned from implementation of the pilot, the department shall recommend a process and timeline for expanding the pilot and implementing it statewide. The department shall report to the governor and the appropriate members of the legislature by September 1, 2009, on the expansion, and shall identify the essential elements of the intensive resource home pilot that should be addressed or replicated if the pilot is expanded.

(9) The department shall operate this pilot using only funds appropriated specifically for the operation of this pilot. The term "specifically for the operation of this pilot" includes only those costs associated with the following: The administration of the pilot, the stipend to eligible intensive resource home providers, training for the providers, consultation for the providers, and program review consultation.

NEW SECTION. **Sec. 3.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition of federal funds which support the operations and services provided by the department of social and health services, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 4.** Of the amounts appropriated in the omnibus appropriations act of 2008 for implementation of this act, referencing this act by bill or chapter number, the department shall allocate two hundred thousand dollars to contract with an agency which is working in partnership with, and has been evaluated by, the University of Washington school of social work to implement promising practice constellation hub models of foster care support in areas of the state not currently served by this model, unless otherwise specified in the omnibus appropriations act of 2008.

Passed by the House March 13, 2008.

Passed by the Senate March 12, 2008.

Approved by the Governor March 31, 2008.

Filed in Office of Secretary of State April 1, 2008.

CHAPTER 282

[Engrossed Second Substitute House Bill 3254]

DUI—CONVICTIONS—ACCOUNTABILITY

AN ACT Relating to accountability for persons driving under the influence of intoxicating liquor or drugs; amending RCW 46.20.342, 46.20.380, 46.20.391, 46.20.400, 46.20.410, 46.20.720, 46.20.740, 46.61.5055, 10.05.010, 10.05.020, 10.05.090, 10.05.160, 46.61.502, and 46.61.504; reenacting and amending RCW 46.20.308 and 46.63.020; adding a new section to chapter 46.04 RCW; adding a new section to chapter 46.68 RCW; adding new sections to chapter 46.20 RCW; adding a new section to chapter 10.05 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04 RCW to read as follows:

"Ignition interlock driver's license" means a permit issued to a person by the department that allows the person to operate a noncommercial motor vehicle with an ignition interlock device while the person's regular driver's license is suspended, revoked, or denied.

Sec. 2. RCW 46.20.308 and 2005 c 314 s 307 and 2005 c 269 s 1 are each reenacted and amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if the driver is age twenty-one or over and the test indicates the alcohol concentration of the driver's breath or blood is 0.08 or more, or if the driver is under age twenty-one and the test indicates the alcohol concentration of the driver's breath or blood is 0.02 or more, or if the driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more if the person is age twenty-one or over, or 0.02 or more if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section and that the person waives the right to a hearing if he or she receives an ignition interlock driver's license;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department

following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person is age twenty-one or over, or was 0.02 or more if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within ((~~thirty~~)) twenty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of two hundred dollars as part of the request. If the request is mailed, it must be postmarked within ((~~thirty~~)) twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required two hundred dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required two hundred dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person

had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person was age twenty-one or over at the time of the arrest, or 0.02 or more if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the

petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(10)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (7) of this section, other than as a result of a breath or blood test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath or blood test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

NEW SECTION. **Sec. 3.** A new section is added to chapter 46.68 RCW to read as follows:

The ignition interlock device revolving account is created in the state treasury. All receipts from the fee assessed under section 9(6) of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for administering and operating the ignition interlock device revolving account program.

Sec. 4. RCW 46.20.342 and 2004 c 95 s 5 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational ((~~or~~)) driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.500, relating to reckless driving;

(ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(x) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xi) A conviction of RCW 46.61.522, relating to vehicular assault;

(xii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xiv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xv) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvi) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xvii) An administrative action taken by the department under chapter 46.20 RCW; or

(xviii) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (i) through (vii), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

Sec. 5. RCW 46.20.380 and 2004 c 95 s 6 are each amended to read as follows:

No person may file an application for an occupational ((~~or~~)) driver's license, a temporary restricted driver's license, or an ignition interlock driver's license as provided in RCW 46.20.391 and section 9 of this act unless he or she first pays to the director or other person authorized to accept applications and fees for driver's licenses a fee of one hundred dollars. The applicant shall receive upon payment an official receipt for the payment of such fee. All such fees shall be forwarded to the director who shall transmit such fees to the state treasurer in the same manner as other driver's license fees.

Sec. 6. RCW 46.20.391 and 2004 c 95 s 7 are each amended to read as follows:

(1)(((~~(a)~~))) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide ((~~or~~)), vehicular assault, ((~~or who has had his or her license suspended, revoked, or denied under RCW 46.20.3101~~)) driving while under the influence of intoxicating liquor or any drug, or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, may submit to the department an application for a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394. ((~~No person may petition for, and the department shall not issue, a temporary restricted driver's license that is effective during the first thirty days of any suspension or revocation imposed for a violation of RCW 46.61.502 or 46.61.504 or, for a suspension, revocation, or denial imposed under RCW 46.20.3101, during the required minimum portion of the periods of suspension, revocation, or denial established under (c) of this subsection.~~

~~(b) An applicant under this subsection whose driver's license is suspended or revoked for an alcohol-related offense shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on a vehicle owned or operated by the person.~~

~~(i) The department shall require the person to maintain such a device on a vehicle owned or operated by the person and shall restrict the person to operating only vehicles equipped with such a device, for the remainder of the period of suspension, revocation, or denial.~~

~~(ii) Subject to any periodic renewal requirements established by the department pursuant to this section and subject to any applicable compliance requirements under this chapter or other law, a temporary restricted driver's license granted after a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.~~

~~(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 (1) and (2) (a), (b), and (c).~~

~~(c) The department shall provide by rule the minimum portions of the periods of suspension, revocation, or denial set forth in RCW 46.20.3101 after which a person may apply for a temporary restricted driver's license under this section. In establishing the minimum portions of the periods of suspension, revocation, or denial, the department shall consider the requirements of federal law regarding state eligibility for grants or other funding, and shall establish such periods so as to ensure that the state will maintain its eligibility, or establish eligibility, to obtain incentive grants or any other federal funding.~~))

(2)(a) A person licensed under this chapter whose driver's license is suspended administratively due to failure to appear or pay a traffic ticket under RCW 46.20.289; a violation of the financial responsibility laws under chapter 46.29 RCW; or for multiple violations within a specified period of time under RCW 46.20.291, may apply to the department for an occupational driver's license.

(b) If the suspension is for failure to respond, pay, or comply with a notice of traffic infraction or conviction, the applicant must enter into a payment plan with the court.

(c) An occupational driver's license issued to an applicant described in (a) of this subsection shall be valid for the period of the suspension or revocation.

(3) An applicant for an occupational or temporary restricted driver's license who qualifies under subsection (1) or (2) of this section is eligible to receive such license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant demonstrates that it is necessary for him or her to operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the applicant;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings of a twelve-step group such as Alcoholics Anonymous that requires the petitioner to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program, provided that a license granted under this provision shall be in effect for no longer than fourteen days; and

(c) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW; and

(d) Upon receipt of evidence that a holder of an occupational driver's license granted under this subsection is no longer enrolled in an apprenticeship or on-the-job training program, the director shall give written notice by first-class mail to the driver that the occupational driver's license shall be canceled. The effective date of cancellation shall be fifteen days from the date of mailing the notice. If at any time before the cancellation goes into effect the driver submits evidence of continued enrollment in the program, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new occupational driver's license upon submittal of evidence of enrollment in another program that meets the criteria set forth in this subsection; and

(e) The department shall not issue an occupational driver's license under (b)(iv) of this subsection if the applicant is able to receive transit services sufficient to allow for the applicant's participation in the programs referenced under (b)(iv) of this subsection.

(4) A person aggrieved by the decision of the department on the application for an occupational or temporary restricted driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an occupational or temporary restricted driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of a separate offense that under chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

Sec. 7. RCW 46.20.400 and 2004 c 95 s 9 are each amended to read as follows:

If an occupational ((~~or~~)) driver's license, a temporary restricted driver's license, or an ignition interlock driver's license is issued and is not revoked

during the period for which issued the licensee may obtain a new driver's license at the end of such period, but no new driver's license may be issued to such person until he or she surrenders his or her occupational ((~~or~~)) driver's license, temporary restricted driver's license, or ignition interlock driver's license and his or her copy of the order, and the director is satisfied that the person complies with all other provisions of law relative to the issuance of a driver's license.

Sec. 8. RCW 46.20.410 and 2004 c 95 s 10 are each amended to read as follows:

Any person convicted for violation of any restriction of an occupational ((~~or~~)) driver's license, a temporary restricted driver's license, or an ignition interlock driver's license shall in addition to the immediate revocation of such license and any other penalties provided by law be fined not less than fifty nor more than two hundred dollars or imprisoned for not more than six months or both such fine and imprisonment.

NEW SECTION. **Sec. 9.** A new section is added to chapter 46.20 RCW to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle in violation of RCW 46.61.502 or 46.61.504, other than vehicular homicide or vehicular assault, or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned by a person's employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or

consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055.

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. The effective date of cancellation shall be fifteen days from the date of mailing the notice. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of a separate offense that under this chapter would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department. (b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs,

ignition interlock companies, and any other organization or entity the department deems appropriate.

NEW SECTION. **Sec. 10.** A new section is added to chapter 46.20 RCW to read as follows:

(1) The ignition interlock device revolving account program is created within the department to assist in covering the monetary costs of installing, removing, and leasing an ignition interlock device, and applicable licensing, for indigent persons who are required under section 9 of this act and RCW 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. For purposes of this subsection, "indigent" has the same meaning as in RCW 10.101.010, as determined by the department.

(2) A pilot program is created within the ignition interlock device revolving account program for the purpose of monitoring compliance by persons required to use ignition interlock devices and by ignition interlock companies and vendors.

(3) The department, the state patrol, and the Washington traffic safety commission shall coordinate to establish a compliance pilot program that will target at least one county from eastern Washington and one county from western Washington, as determined by the department, state patrol, and Washington traffic safety commission.

(4) At a minimum, the compliance pilot program shall:

(a) Review the number of ignition interlock devices that are required to be installed in the targeted county and the number of ignition interlock devices actually installed;

(b) Work to identify those persons who are not complying with ignition interlock requirements or are repeatedly violating ignition interlock requirements; and

(c) Identify ways to track compliance and reduce noncompliance.

(5) As part of monitoring compliance, the Washington traffic safety commission shall also track recidivism for violations of RCW 46.61.502 and 46.61.504 by persons required to have an ignition interlock driver's license under section 9 of this act.

Sec. 11. RCW 46.63.020 and 2005 c 431 s 2, 2005 c 323 s 3, and 2005 c 183 s 10 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational ((~~or~~)) driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to ((~~assisting another person to start a vehicle equipped with~~)) circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

(24) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

((~~(24)~~)) (25) RCW 46.48.175 relating to the transportation of dangerous articles;

((~~(25)~~)) (26) RCW 46.52.010 relating to duty on striking an unattended car or other property;

((~~(26)~~)) (27) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

((~~(27)~~)) (28) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

((~~(28)~~)) (29) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

((~~(29)~~)) (30) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

((~~(30)~~)) (31) RCW 46.55.035 relating to prohibited practices by tow truck operators;

((~~(31)~~)) (32) RCW 46.55.300 relating to vehicle immobilization;

(33) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

((~~(32)~~)) (34) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

((~~(33)~~)) (35) RCW 46.61.022 relating to failure to stop and give identification to an officer;

((~~(34)~~)) (36) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

((~~(35)~~)) (37) RCW 46.61.500 relating to reckless driving;

((~~(36)~~)) (38) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

((~~(37)~~)) (39) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

((~~(38)~~)) (40) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

((~~(39)~~)) (41) RCW 46.61.522 relating to vehicular assault;

((~~(40)~~)) (42) RCW 46.61.5249 relating to first degree negligent driving;

((~~(41)~~)) (43) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

((~~(42)~~)) (44) RCW 46.61.530 relating to racing of vehicles on highways;

((~~(43)~~)) (45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

((~~(44)~~)) (46) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

((~~(45)~~)) (47) RCW 46.61.740 relating to theft of motor vehicle fuel;

((~~(46) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;~~

~~(47)~~)) (48) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

((~~(48)~~)) (49) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

((~~(49)~~)) (50) Chapter 46.65 RCW relating to habitual traffic offenders;

((~~(50)~~)) (51) RCW 46.68.010 relating to false statements made to obtain a refund;

((~~(51)~~)) (52) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

((~~(52)~~)) (53) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

((~~(53)~~)) (54) RCW 46.72A.060 relating to limousine carrier insurance;

((~~(54)~~)) (55) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

((~~(55)~~)) (56) RCW 46.72A.080 relating to false advertising by a limousine carrier;

((~~(56)~~)) (57) Chapter 46.80 RCW relating to motor vehicle wreckers;

((~~(57)~~)) (58) Chapter 46.82 RCW relating to driver's training schools;

((~~(58)~~)) (59) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

((~~(59)~~)) (60) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Sec. 12. RCW 46.20.720 and 2004 c 95 s 11 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055, 10.05.020, or section 18 of this act, the court shall order any person convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance or participating in a deferred prosecution program under RCW 10.05.020 or section 18 of this act for an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department under section 9 of this act and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The device is not necessary on vehicles owned by a person's employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. The period of time of the restriction will be as follows:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

Sec. 13. RCW 46.20.740 and 2004 c 95 s 12 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720 or 46.61.5055 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped.

Sec. 14. RCW 46.61.5055 and 2007 c 474 s 1 are each amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to

RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The

court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 ((~~and who~~)) shall be punished under chapter 9.94A RCW if: (a) The person has four or more prior offenses within ten years((~~,~~)); or ((~~who~~)) (b) the person has ever previously been convicted of: (i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug ((~~or~~)); (ii) a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug((~~, shall be punished in accordance with chapter 9.94A RCW~~)); or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

(5)(a) The court shall require any person convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 to apply for an ignition interlock driver's license from the department under section 9 of this act and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned by a person's employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person obtain an ignition interlock driver's license and operate only vehicles equipped with a functioning ignition interlock device if the court makes a specific finding in writing that the devices are not reasonably available in the local area, that the person does not operate a vehicle, or the person is not eligible to receive an ignition interlock driver's license under section 9 of this act.

(e) When the requirement that a person obtain an ignition interlock driver's license and operate only vehicles equipped with a functioning ignition interlock device is waived by the court, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring. The

county or municipality where the penalty is being imposed shall determine the cost.

(f) The period of time for which ignition interlock use or alcohol monitoring is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (f)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (f)(ii) of this subsection, a period of ten years.

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(((~~(6)~~))) (7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(((~~(7)~~))) (8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(((~~(8)~~))) (9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection ((~~(8)~~)) (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

((~~(9)~~)) (10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

((~~(10)~~)) (11)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

((~~(11)~~)) (12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

((~~(12)~~)) (13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(4).

((~~(13)~~)) (14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years of the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years of the arrest for the current offense.

Sec. 15. RCW 10.05.010 and 2002 c 219 s 6 are each amended to read as follows:

(1) In a court of limited jurisdiction a person charged with a misdemeanor or gross misdemeanor may petition the court to be considered for a deferred prosecution program. The petition shall be filed with the court at least seven days before the date set for trial but, upon a written motion and affidavit establishing good cause for the delay and failure to comply with this section, the court may waive this requirement subject to the defendant's reimbursement to the court of the witness fees and expenses due for subpoenaed witnesses who have appeared on the date set for trial.

(2) A person charged with a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020 or section 18 of this act. Such person shall not be eligible for a deferred prosecution program more than once; and cannot receive a deferred prosecution under both RCW 10.05.020 and section 18 of this act. Separate offenses committed more than seven days apart may not be consolidated in a single program.

(3) A person charged with a misdemeanor or a gross misdemeanor under chapter 9A.42 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020. Such person shall not be eligible for a deferred prosecution program more than once.

Sec. 16. RCW 10.05.020 and 2002 c 219 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section or section 18 of this act, the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by alcoholism, drug addiction, or mental problems for which the person is in need of treatment and unless treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved alcoholism treatment program as designated in chapter 70.96A RCW if the petition alleges alcoholism, an approved drug program as designated in chapter 71.24 RCW if the petition alleges drug addiction, or by an approved mental health center if the petition alleges a mental problem.

(2) In the case of a petitioner charged with a misdemeanor or gross misdemeanor under chapter 9A.42 RCW, the petitioner shall allege under oath in the petition that the petitioner is the natural or adoptive parent of the alleged victim; that the wrongful conduct charged is the result of parenting problems for which the petitioner is in need of services; that the petitioner is in need of child welfare services under chapter 74.13 RCW to improve his or her parenting skills in order to better provide his or her child or children with the basic necessities of life; that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her minor children; that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children; and that the petitioner has cooperated with the department of social and health services to develop a plan to receive appropriate child welfare services; along with a statement that the person agrees to pay the cost of the services if he or she is financially able to do so. The petition shall

also contain a case history and a written service plan from the department of social and health services.

(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges ((~~or~~)); (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction, or mental problems, unless the petition for deferred prosecution is under section 18 of this act; or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.

(4) Before entering an order deferring prosecution, the court shall make specific findings that: (a) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (b) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (c) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (d) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

Sec. 17. RCW 10.05.090 and 1997 c 229 s 1 are each amended to read as follows:

If a petitioner, who has been accepted for a deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the petitioner's treatment plan or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720 or section 9 of this act, the facility, center, institution, or agency administering the treatment or the entity administering the use of the device, shall immediately report such breach to the court, the prosecutor, and the petitioner or petitioner's attorney of record, together with its recommendation. The court upon receiving such a report shall hold a hearing to determine whether the petitioner should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of the petitioner's alleged failure to comply with the treatment plan or device installation and the petitioner shall have the right to present evidence on his or her own behalf. The court shall either order that the petitioner continue on the treatment plan or be removed from deferred prosecution. If the petitioner's

noncompliance is based on a violation of a term or condition imposed in connection with the installation of an ignition interlock device under section 9 of this act, the court shall either order that the petitioner comply with the term or condition or be removed from deferred prosecution. If removed from deferred prosecution, the court shall enter judgment pursuant to RCW 10.05.020 and, if the charge for which the deferred prosecution was granted was a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify the department of licensing of the removal and entry of judgment.

***NEW SECTION.** Sec. 18. A new section is added to chapter 10.05 RCW to read as follows:*

(1) A person charged with a misdemeanor or gross misdemeanor under RCW 46.61.502 or 46.61.504 who has had no prior offenses as defined in RCW 46.61.5055 and has been assessed pursuant to subsection (3) of this section shall be eligible for a one-time deferred prosecution program.

(2) Before entering an order deferring prosecution under this section, the court shall make a specific finding that the petitioner has no prior offenses as defined in RCW 46.61.5055 and has been assessed by a certified chemical dependency counselor and a licensed mental health professional, and found not to need treatment for alcoholism, drug addiction, or mental problems. As a condition of granting a deferral prosecution petition, the court shall order the petitioner to satisfy the conditions in RCW 10.05.140 and shall order the petitioner to apply for an ignition interlock driver's license from the department of licensing and have a functioning ignition interlock device installed on all motor vehicles operated by the person. The required period of use of the ignition interlock device shall be one year. The court may order supervision of the petitioner during the period of deferral pursuant to RCW 10.05.170.

(3) A petitioner seeking a deferral of prosecution under this section shall undergo an assessment by a certified chemical dependency counselor and a licensed mental health professional to determine whether the petitioner is or is not in need of treatment for alcoholism, drug addiction, or mental problems.

***Sec. 18 was vetoed. See message at end of chapter.**

Sec. 19. RCW 10.05.160 and 1999 c 143 s 44 are each amended to read as follows:

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

(1) Prior deferred prosecution has been granted to the defendant;

(2) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;

(3) Failure of the court to comply with the requirements of RCW 10.05.100;

(4) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment program;

(5) Failure of the court to order the installation of an ignition interlock or other device under RCW 46.20.720 or section 9 of this act.

Sec. 20. RCW 46.61.502 and 2006 c 73 s 1 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if: (a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or (b) the person has ever previously been convicted of (i) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), ((~~or~~)) (ii) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

Sec. 21. RCW 46.61.504 and 2006 c 73 s 2 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if: (a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or (b) the person has ever previously been convicted of (i) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), ((~~or~~)) (ii) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

NEW SECTION. **Sec. 22.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus transportation appropriations act, this act is null and void.

NEW SECTION. **Sec. 23.** Sections 2, 4 through 8, and 11 through 14 of this act take effect January 1, 2009.

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 31, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 1, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 18, Engrossed Second Substitute House Bill 3254 entitled:

"AN ACT Relating to accountability for persons driving under the influence of intoxicating liquor or drugs."

Prevention of driving under the influence (DUI) collisions is a priority of my administration. The Ignition Interlock Driver's License will further our state's efforts to prevent DUI related fatalities on our roadways. The use of ignition interlocks has been proven to reduce future incidents of DUI among individuals who have been required to have the devices installed in their cars. However, I am concerned about potential unintended consequences of Section 18.

Section 18 allows first time offenders to receive a deferred prosecution, even if they are found not to have a drug or alcohol addiction. Current law only allows for deferred prosecution if a person is assessed to have a drug or alcohol addiction and agrees to receive treatment for their addiction.

This section presents a change in public policy, which may well promote public safety, but I believe further review is necessary before making this change. Therefore, I am vetoing this section and encourage stakeholders to consider the merits of this change over the interim. I am also directing the Division of Alcohol and Substance Abuse to review the current treatment assessment process to make sure we are getting accurate assessments. I also want them to determine if alternatives to treatment such as the one proposed in Section 18 might be a more cost-effective approach to public safety in certain instances involving first time DUI offenders.

For these reasons, I have vetoed Section 18 of Engrossed Second Substitute House Bill 3254.

With the exception of Section 18 of Engrossed Second Substitute House Bill 3254 is approved."

CHAPTER 283

[Engrossed Substitute House Bill 3303]

POLYSILICON MANUFACTURERS—TAX CREDIT

AN ACT Relating to a business and occupation tax credit for qualified preproduction development expenditures for polysilicon manufacturers; amending RCW 82.32.545; adding a new section to chapter 82.04 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1)(a) In computing the tax imposed under this chapter, a manufacturer of polysilicon may claim a credit for its qualified preproduction development expenditures occurring after January 1, 2008.

(b) Any credits earned under this section must be accrued and carried forward and may not be used until July 1, 2009 and until a polysilicon manufacturer expends five hundred million dollars on a polysilicon manufacturing plant located in a county along the boundary line between Washington and Oregon with a population greater than fifty thousand but less than one hundred thousand. A polysilicon manufacturer may not claim a credit under this section in excess of one million dollars in any calendar year. Carryover credits may be used at any time after June 30, 2009, and may be carried over until used. Refunds may not be granted in the place of a credit.

(2) The credit is equal to the amount of qualified preproduction development expenditures, multiplied by the rate of seven and one-half percent.

(3) Credit earned on or after July 1, 2009, may be carried over until used. The credit claimed against taxes due for each calendar year must not exceed the amount of tax otherwise due under this chapter for the calendar year. Refunds may not be granted in the place of a credit.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Preproduction development" means: (A) Research, design, and engineering activities performed in relation to the development of a product or

product line; (B) the design and engineering of the facility in which the product or product line will be manufactured; and (C) training of production employees where the training is directly related to the manufacturing of the product or product line.

(ii) The term "preproduction development" includes the discovery of technological information, the translating of technological information into new or improved products, processes, techniques, formulas, or inventions, and the adaptation of existing products into new products or derivatives of products or models. The term does not include manufacturing activities or other production-oriented activities other than tool design and engineering design for the manufacturing process and the training identified in (a)(i)(C) of this subsection (4). The term also does not include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(b)(i) Except as provided in (ii) of this subsection (4)(b), "qualified preproduction development" means preproduction development performed in the field of polysilicon manufacturing in a county along the boundary line between Washington and Oregon with a population greater than fifty thousand but less than one hundred thousand.

(ii) "Qualified preproduction development" also includes preproduction development as defined in (a)(i)(B) of this subsection (4) occurring outside of this state in relation to a polysilicon manufacturing facility located, or to be located, in a county along the boundary line between Washington and Oregon with a population greater than fifty thousand but less than one hundred thousand.

(c) "Qualified preproduction development expenditures" means operating expenses including wages, benefits, supplies, and computer expenses directly incurred in qualified preproduction development by a person claiming the credit provided in this section. The term does not include amounts paid to a person or to the state or any of its departments or institutions, other than a public educational or research institution, to conduct preproduction development in the field of polysilicon manufacturing. The term also does not include capital costs and overhead, such as expenses for land, structures, or depreciable property. For purposes of this subsection (4)(c), capital costs do not include costs incurred for the design and engineering of a manufacturing facility as provided in (a)(i)(B) of this subsection (4).

(5) In addition to all other requirements under this title, a person claiming the credit under this section must report as required under RCW 82.32.545 and provide such additional information as the department may prescribe.

(6) Credit may not be claimed for expenditures for which a credit is claimed under RCW 82.04.4452.

(7) This section expires July 1, 2024.

Sec. 2. RCW 82.32.545 and 2007 c 54 s 19 are each amended to read as follows:

(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how a tax incentive is used.

(2)(a) A person who reports taxes under RCW 82.04.260(11) or who claims an exemption or credit under RCW 82.04.4461, 82.08.980, 82.12.980, 82.29A.137, 84.36.655, ((~~and~~)) 82.04.4463, or section 1 of this act shall make an annual report to the department detailing employment, wages, and employer-provided health and retirement benefits per job at the manufacturing site. The report shall not include names of employees. The report shall also detail employment by the total number of full-time, part-time, and temporary positions. The first report filed under this subsection shall include employment, wage, and benefit information for the twelve-month period immediately before first use of a preferential tax rate under RCW 82.04.260(11), or tax exemption or credit under RCW 82.04.4461, 82.08.980, 82.12.980, 82.29A.137, 84.36.655, ((~~and~~)) 82.04.4463, or section 1 of this act. The report is due by March 31st following any year in which a preferential tax rate under RCW 82.04.260(11) is used, or tax exemption or credit under RCW 82.04.4461, 82.08.980, 82.12.980, 82.29A.137, 84.36.655, ((~~and~~)) 82.04.4463, or section 1 of this act is taken. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(b) If a person fails to submit an annual report under (a) of this subsection by the due date of the report, the department shall declare the amount of taxes exempted or credited, or reduced in the case of the preferential business and occupation tax rate, for that year to be immediately due and payable. Excise taxes payable under this subsection are subject to interest but not penalties, as provided under this chapter. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(3) By November 1, 2010, for chapter 1, Laws of 2003 2nd sp. sess., and by November 1, 2014, for section 1 of this act, and by November 1, ((~~2023~~)) 2022, for chapter 1, Laws of 2003 2nd sp. sess. and section 1 of this act, the ((~~fiscal committees of the house of representatives and the senate, in consultation with the department,~~)) joint legislative audit and review committee shall report to the legislature on the effectiveness of chapter 1, Laws of 2003 2nd sp. sess. and section 1 of this act in regard to keeping Washington competitive. The report shall measure the effect of chapter 1, Laws of 2003 2nd sp. sess. and section 1 of this act on job retention, net jobs created for Washington residents, company growth, diversification of the state's economy, cluster dynamics, and other factors as the committees select. The reports shall include a discussion of principles to apply in evaluating whether the legislature should reenact any or all of the tax preferences in chapter 1, Laws of 2003 2nd sp. sess. and section 1 of this act. The department shall maintain information from the annual reports submitted under subsection (2) of this section necessary for the committee to prepare its reports under this subsection.

NEW SECTION. **Sec. 3.** If a port in a county along the boundary line between Washington and Oregon with a population greater than fifty thousand but less than one hundred thousand and a polysilicon manufacturer do not sign a memorandum of understanding to site a polysilicon manufacturing plant that is expected to cost at least five hundred million dollars by October 1, 2008, this act is null and void.

Passed by the House February 18, 2008.
Passed by the Senate March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 284

[House Bill 3362]

ENERGY EFFICIENCY-COMMERCIAL EQUIPMENT—TAX INCENTIVES

AN ACT Relating to tax incentives to encourage businesses to purchase highly energy efficient equipment; adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that improving energy efficiency is key to achieving the state's goals to reduce greenhouse gas emissions to 1990 levels by 2020. The legislature further finds that increased energy efficiency saves Washington businesses money, which in turn helps the state and local economy, as energy bill savings can be spent on local goods and services. Washington state and federal appliance standards passed since 2005 will produce about eighty thousand metric tons of greenhouse gas emissions savings toward Washington's 2020 target. However, there are a large number of commercial devices on the market that are not subject to those standards. In addition, there are many new products on the market that are much more energy efficient than required by such standards, but because they may be more expensive than standard models, they represent only a small percentage of sales. Most commercial equipment, once purchased, will be in use for ten to fifteen years; therefore, the more energy efficient they are, the greater the energy and cost savings and reductions in climate pollution.

Thus, the legislature intends to enact tax incentives as a means to encourage Washington businesses to purchase certain high efficiency appliances and equipment and to maximize the energy savings opportunity available through increased and sustained market share of those appliances and equipment.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed in an amount equal to eight and eight-tenths percent multiplied by the purchase price, as defined in RCW 82.12.010, of the following items:

(a) Commercial freezers and refrigerators meeting consortium for energy efficiency tier 2 specifications dated January 1, 2006;

(b) High efficiency commercial clothes washers meeting consortium for energy efficiency specifications dated November 14, 2007;

(c) Commercial ice makers meeting consortium for energy efficiency specifications dated January 1, 2006;

(d) Commercial full-sized gas convection ovens with interior measurements of six cubic feet or larger;

(e) Commercial deep fat fryers which are rated energy star as of August 2003;

(f) Commercial hot food holding cabinets which are rated energy star as of August 2003; and

(g) Commercial electric and gas steam cookers, also known as compartment cookers, which are rated energy star as of August 2003.

(2) A person may not take the credit under this section if the person's gross income of the business in the prior calendar year exceeded seven hundred fifty thousand dollars.

(3) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year. Credit may not be claimed against taxes due for any tax reporting period ending before the credit was earned. No refunds shall be granted for credits under this section.

(4) Credits are available on a first-in-time basis. The department shall disallow any credits, or portion thereof, that would cause the total amount of credits claimed statewide under this section in any year to exceed seven hundred fifty thousand dollars. If the seven hundred fifty thousand dollar limitation is reached, the department shall provide written notice to any person that has claimed tax credits after the seven hundred fifty thousand dollar limitation in this subsection has been met. The notice shall indicate the amount of tax due and shall provide that the tax be paid within thirty days from the date of such notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(5) The department of community, trade, and economic development must prepare and deliver a report to the legislature no later than December 30, 2010, assessing the overall energy and cost saving impacts of this section.

(6) Credit may not be claimed under this section for the purchase of an item, listed in subsection (1) of this section, before the effective date of this section.

(7) Credit may not be claimed under this section for the purchase of an item, listed in subsection (1) of this section, after June 30, 2010.

(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (A) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (B) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(ii) "Commercial refrigerators and freezers" does not include: (A) Products with eighty-five cubic feet or more of internal volume; (B) walk-in refrigerators or freezers; (C) consumer products that are federally regulated pursuant to Title 42 U.S.C. Sec. 6291 et seq.; (D) products without doors; or (E) freezers specifically designed for ice cream.

(b) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that: (i) Has a clothes container compartment no greater than three and one-half cubic feet in the case of a horizontal-axis product or no greater than four cubic feet in the case of a vertical-axis product; and (ii) is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.

(c) "Commercial hot food holding cabinet" means an appliance that is designed to hold hot food at a specified temperature, which has been cooked using a separate appliance.

(d) "Commercial ice maker" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice. It may also include integrated components for storing or dispensing ice, or both.

(e) "Commercial open, deep-fat fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is essentially supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element or band-wrapped vessel (electric fryers), or by heat transfer from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid (gas fryers).

(f) "Consortium" means the consortium for energy efficiency, a United States nonprofit public benefits corporation that promotes the manufacture and purchase of energy efficient products and services. The consortium's members include utilities, statewide and regional market transformation administrators, environmental groups, research organizations, and state energy offices in the United States and Canada.

(g) "Energy star" is an energy efficient product that meets the federal environmental protection agency's and federal department of energy's criteria for use of the energy star trademark label, or is in the upper twenty-five percent of efficiency for all similar products as designated by the federal energy management program. Energy star is a voluntary labeling program designed to identify and promote energy efficient products to reduce greenhouse gas emissions.

(h) "Steam cooker" means a device with one or more food steaming compartments, in which the energy in the steam is transferred to the food by direct contact. Models may include countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2008.

NEW SECTION. **Sec. 4.** This act expires July 1, 2010.

Passed by the House March 12, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 285

[Engrossed House Bill 3381]

CONSUMER PROTECTION—PROGRAM IMPLEMENTATION—FEES

AN ACT Relating to fees to implement programs that protect and improve Washington's health, safety, education, employees, and consumers; amending RCW 39.12.070, 43.22.434, 70.74.137, 70.74.140, 70.74.142, 70.74.144, 70.74.146, 70.74.360, 15.58.070, 15.58.180, 15.58.200, 15.58.205, 15.58.210, 15.58.220, 17.21.070, 17.21.110, 17.21.122, 17.21.126, 17.21.129, and 17.21.220; adding a new section to chapter 70.74 RCW; adding new sections to chapter 18.130 RCW; adding a new section to chapter 18.84 RCW; adding a new section to chapter 16.36 RCW;

adding a new section to chapter 18.185 RCW; creating new sections; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** To protect taxpayers, many state programs require the costs of licensing, registration, certification, and related government services to be borne by the profession or industry that uses the services, rather than by the taxpaying public as a whole. State standards that govern the professional duties of these industries are intended to protect the general public by safeguarding health, safety, employees, and consumers. The legislative approval of the fees and fee increases in this act is intended to ensure that the general public is not assessed these costs while also providing adequate funding to statutory programs that safeguard and improve Washington's health, safety, employees, and consumers.

Sec. 2. RCW 39.12.070 and 2006 c 230 s 1 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—PREVAILING WAGE—CERTIFICATION OF AFFIDAVITS. The department of labor and industries may charge fees to awarding agencies on public works for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid. The department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.05 RCW. The fees shall apply to all approvals, certifications, and arbitration requests made after the effective date of the rules. All fees shall be deposited in the public works administration account. The department may refuse to arbitrate for contractors, subcontractors, persons, or organizations which have not paid the proper fees. The department may, if necessary, request the attorney general to take legal action to collect delinquent fees.

The department shall set the fees permitted by this section at a level that generates revenue that is as near as practicable to the amount of the appropriation to administer this chapter, including, but not limited to, the performance of adequate wage surveys, and to investigate and enforce all alleged violations of this chapter, including, but not limited to, incorrect statements of intent to pay prevailing wage, incorrect certificates of affidavits of wages paid, and wage claims, as provided for in this chapter and chapters 49.48 and 49.52 RCW. However, the fees charged for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid shall be ((~~no greater than twenty-five~~)) forty dollars.

NEW SECTION. **Sec. 3.** Section 2 of this act takes effect July 1, 2008.

Sec. 4. RCW 43.22.434 and 2005 c 274 s 296 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—FACTORY ASSEMBLED STRUCTURES/MOBILE/MANUFACTURED HOMES. (1) The director or the director's authorized representative may conduct such inspections, investigations, and audits as may be necessary to adopt or enforce manufactured and mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, park trailer, factory built housing, and

factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured and mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale;

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974. Each inspection shall be commenced and completed with reasonable promptness; and

(c) As requested by an owner of a conversion vending unit or medical unit, inspect an alteration.

(3) For purposes of determining compliance with this chapter's permitting requirements for alterations of mobile and manufactured homes, the department may audit the records of a contractor as defined in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor as defined in RCW 19.28.006 when the department has reason to believe that a violation of the permitting requirements has occurred. The department shall adopt rules implementing the auditing procedures. Information obtained from a contractor through an audit authorized by this subsection is confidential and not open to public inspection under chapter 42.56 RCW.

(4)((~~(a)~~)) The department shall set a schedule of fees by rule which will cover the costs incurred by the department in the administration of RCW 43.22.335 through 43.22.490, and is hereby authorized to do so pursuant to RCW 43.135.055. The department shall use fees set under this subsection only for the administration of RCW 43.22.335 through 43.22.490. The department may waive mobile/manufactured home alteration permit fees for indigent permit applicants.

((~~(b)(i) Until April 1, 2009, subject to (a) of this subsection, the department may adopt by rule a temporary statewide fee schedule that decreases fees for mobile/manufactured home alteration permits and increases fees for factory-built housing and commercial structures plan review and inspection services.~~

~~(ii) Effective April 1, 2009, the department must adopt a new fee schedule that is the same as the fee schedule that was in effect immediately prior to the temporary fee schedule authorized in (b)(i) of this subsection. However, the new fee schedule must be adjusted by the fiscal growth factors not applied during the period that the temporary fee schedule was in effect.~~))

Sec. 5. RCW 70.74.137 and 1988 c 198 s 12 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—EXPLOSIVES. Every person applying for a purchaser's license, or renewal thereof, shall pay an annual license fee of ((~~five~~)) twenty-five dollars. The director of labor and industries

may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ((~~fifteen~~)) one hundred dollars.

Said license fee shall accompany the application and shall be transmitted by the department to the state treasurer: PROVIDED, That if the applicant is denied a purchaser's license the license fee shall be returned to said applicant by registered mail.

Sec. 6. RCW 70.74.140 and 1988 c 198 s 13 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—EXPLOSIVES. Every person engaging in the business of keeping or storing of explosives shall pay an annual license fee for each magazine maintained, to be graduated by the department of labor and industries according to the quantity kept or stored therein, of ((~~ten~~)) fifty dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ((~~one~~)) four hundred dollars.

Said license fee shall accompany the application and shall be transmitted by the department to the state treasurer.

Sec. 7. RCW 70.74.142 and 1988 c 198 s 14 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—EXPLOSIVES. Every person applying for a user's license, or renewal thereof, under this chapter shall pay an annual license fee of ((~~five~~)) fifty dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ((~~fifteen~~)) two hundred dollars.

Said license fee shall accompany the application, and be ((~~turned over~~)) transmitted by the department to the state treasurer: PROVIDED, That if the applicant is denied a user's license the license fee shall be returned to said applicant by registered mail.

Sec. 8. RCW 70.74.144 and 1988 c 198 s 15 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—EXPLOSIVES. Every person engaged in the business of manufacturing explosives shall pay an annual license fee of ((~~twenty-five~~)) fifty dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ((~~fifty~~)) two hundred dollars.

Businesses licensed to manufacture explosives are not required to have a dealer's license, but must comply with all of the dealer requirements of this chapter when they sell explosives.

The license fee shall accompany the application and shall be transmitted by the department to the state treasurer.

Sec. 9. RCW 70.74.146 and 1988 c 198 s 16 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—EXPLOSIVES. Every person engaged in the business of selling explosives shall pay an annual license fee of ((~~twenty-five~~)) fifty dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ((~~fifty~~)) two hundred dollars.

Businesses licensed to sell explosives must comply with all of the dealer requirements of this chapter.

The license fee shall accompany the application and shall be transmitted by the department to the state treasurer.

Sec. 10. RCW 70.74.360 and 1988 c 198 s 3 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—EXPLOSIVES. (1) The director of labor and industries shall require, as a condition precedent to the original issuance or renewal of any explosive license, fingerprinting and criminal history record information checks of every applicant. In the case of a corporation, fingerprinting and criminal history record information checks shall be required for the management officials directly responsible for the operations where explosives are used if such persons have not previously had their fingerprints recorded with the department of labor and industries. In the case of a partnership, fingerprinting and criminal history record information checks shall be required of all general partners. Such fingerprints as are required by the department of labor and industries shall be submitted on forms provided by the department to the identification section of the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior convictions of the individuals fingerprinted. The Washington state patrol shall provide to the director of labor and industries such criminal record information as the director may request. The applicant shall give full cooperation to the department of labor and industries and shall assist the department of labor and industries in all aspects of the fingerprinting and criminal history record information check. The applicant ((~~may~~)) shall be required to pay ((~~a~~)) the current federal and state fee ((~~not to exceed twenty dollars to the agency that performs the fingerprinting and criminal history process~~)) for fingerprint-based criminal history background checks.

(2) The director of labor and industries shall not issue a license to manufacture, purchase, store, use, or deal with explosives to:

(a) Any person under twenty-one years of age;

(b) Any person whose license is suspended or whose license has been revoked, except as provided in RCW 70.74.370;

(c) Any person who has been convicted in this state or elsewhere of a violent offense as defined in RCW 9.94A.030, perjury, false swearing, or bomb threats or a crime involving a schedule I or II controlled substance, or any other drug or alcohol related offense, unless such other drug or alcohol related offense does not reflect a drug or alcohol dependency. However, the director of labor and industries may issue a license if the person suffering a drug or alcohol related dependency is participating in or has completed an alcohol or drug recovery program acceptable to the department of labor and industries and has established control of their alcohol or drug dependency. The director of labor and industries shall require the applicant to provide proof of such participation and control; or

(d) Any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease and who has not at the time of application been restored to competency.

(3) The director of labor and industries may establish reasonable licensing fees for the manufacture, dealing, purchase, use, and storage of explosives.

NEW SECTION. **Sec. 11.** A new section is added to chapter 70.74 RCW to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES—EXPLOSIVES. All funds collected by the department under RCW 70.74.137 through 70.74.146 and 70.74.360 shall be transferred to the state treasurer for deposit into the accident and medical aid funds under RCW 51.44.010 and 51.44.020.

NEW SECTION. **Sec. 12.** A new section is added to chapter 18.130 RCW to read as follows:

DEPARTMENT OF HEALTH—HEALTH PROFESSIONS BACKGROUND CHECKS. In accordance with RCW 43.135.055, to implement the background check activities conducted pursuant to RCW 18.130.— (section 7 of Fourth Substitute House Bill No. 1103, health professions), the department may establish fees as necessary to recover the cost of these activities and, except as precluded by RCW 43.70.110, the department shall require applicants to submit the required fees along with other information required by the state patrol.

NEW SECTION. **Sec. 13.** A new section is added to chapter 18.130 RCW to read as follows:

DEPARTMENT OF HEALTH—HEALTH PROFESSIONS. In accordance with RCW 43.135.055, the department may annually increase application and renewal fees as necessary to recover the cost of implementing the administrative and disciplinary provisions of chapter . . ., Laws of 2008 (Fourth Substitute House Bill No. 1103)).

NEW SECTION. **Sec. 14.** A new section is added to chapter 18.84 RCW to read as follows:

DEPARTMENT OF HEALTH—RADIOLOGY ASSISTANTS. In accordance with RCW 43.135.055, the department may establish application, certification, and renewal fees as necessary to recover the cost of implementing chapter . . ., Laws of 2008 (Substitute House Bill No. 6439, radiology assistants).

Sec. 15. RCW 15.58.070 and 2002 c 274 s 3 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. (1) All registrations issued by the department expire December 31st of the following year except that registrations issued by the department to a registrant who is applying to register an additional pesticide during the second year of the registrant's registration period shall expire December 31st of that year.

(2) An application for registration ((~~shall~~)) must be accompanied by a fee of ((~~two~~)) three hundred ninety dollars for each pesticide, except that a registrant who is applying to register an additional pesticide during the year the registrant's registration expires shall pay a fee of one hundred ((~~forty-five~~)) ninety-five dollars for each additional pesticide.

(3) Fees ((~~shall~~)) must be deposited in the agricultural local fund to support the activities of the pesticide program within the department.

(4) Any registration approved by the director and in effect on the last day of the registration period, for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110.

Sec. 16. RCW 15.58.180 and 1997 c 242 s 4 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. (1) Except as provided in subsections (4) and (5) of this section, it is unlawful for any person to act in the capacity of a pesticide dealer or advertise as or assume to act as a pesticide dealer without first having obtained an annual license from the director. The license ((~~shall~~)) expires on the master license expiration date. A license is required for each location or outlet located within this state from which pesticides are distributed. A manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes ((~~such~~)) pesticides directly into this state ((~~shall~~)) must obtain a pesticide dealer license for his or her principal out-of-state location or outlet, but such a licensed out-of-state pesticide dealer is exempt from the pesticide dealer manager requirements.

(2) Application for a license ((~~shall~~)) must be accompanied by a fee of ((~~fifty~~)) sixty-seven dollars and ((~~shall~~)) must be made through the master license system and ((~~shall~~)) must include the full name of the person applying for the license and the name of the individual within the state designated as the pesticide dealer manager. If the applicant is a partnership, association, corporation, or organized group of persons, the full name of each member of the firm or partnership or the names of the officers of the association or corporation ((~~shall~~)) must be given on the application. The application ((~~shall further~~)) must state the principal business address of the applicant in the state and elsewhere, the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director.

(3) It is unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification. ((~~The department shall be notified forthwith of any change in the pesticide dealer manager designee during the licensing period.~~))

(4) This section does not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of the applicator's pesticide application service when ((~~such~~)) pesticides are dispensed only through apparatuses used for ((~~such~~)) pesticide application, or (b) any federal, state, county, or municipal agency that provides pesticides only for its own programs.

(5) A user of a pesticide may distribute a properly labeled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

Sec. 17. RCW 15.58.200 and 1997 c 242 s 5 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. The director shall require each pesticide dealer manager to demonstrate to the director knowledge of pesticide laws and rules; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination after which the director shall issue a license of qualification. Application for a license ((~~shall~~)) must be accompanied by a fee of ((~~twenty-five~~)) thirty-three dollars. The pesticide dealer manager license ((~~shall be an annual license expiring~~)) expires annually on a date set by rule by the director.

Sec. 18. RCW 15.58.205 and 2003 c 212 s 5 are each amended to read as follows:

(1) ((~~Except as provided in subsection (2) of this section,~~)) No individual may perform services as a structural pest inspector or advertise that they perform services of a structural pest inspector without obtaining a structural pest inspector license from the director. The license expires annually on a date set by rule by the director. Application for a license must be on a form prescribed by the director and must be accompanied by a fee of ((~~forty-five~~)) sixty dollars.

(2) The following are exempt from the application fee requirement ((~~of subsection (1)~~)) of this section when acting within the authorities of their existing licenses issued under this chapter ((~~15.58~~)) or chapter 17.21 RCW: Licensed pest control consultants; licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators.

(3) The following are exempt from the structural pest inspector licensing requirement: Individuals inspecting for damage caused by wood destroying organisms if the inspections are solely for the purpose of: (a) Repairing or making specific recommendations for the repair of the damage, or (b) assessing a monetary value for the structure inspected. Individuals performing wood destroying organism inspections that incorporate but are not limited to the activities described in (a) or (b) of this subsection are not exempt from the structural pest inspector licensing requirement.

(4) ((~~Persons holding a valid license to act as a structural pest inspector on July 1, 2003, are exempt from this requirement until expiration of that license.~~

~~(5)~~)) A structural pest inspector license is not valid for conducting a complete wood destroying organism inspection unless the inspector owns or is employed by a business with a structural pest inspection company license.

Sec. 19. RCW 15.58.210 and 2003 c 212 s 4 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. (1) ((~~Except as provided in subsection (2) of this section,~~)) No individual may perform services as a pest control consultant without obtaining a license from the director. The license ((~~shall~~)) expires annually on a date set by rule by the director. Application for a license ((~~shall~~)) must be on a form prescribed by the director and ((~~shall~~)) must be accompanied by a fee of ((~~forty-five~~)) sixty dollars.

(2) The following are exempt from the licensing requirements of ((~~subsection (1) of~~)) this section when acting within the authorities of their existing licenses issued under chapter 17.21 RCW: Licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators. The following are also exempt from the licensing requirements of ((~~subsection (1) of~~)) this section: Employees of federal, state, county, or municipal agencies when acting in their official governmental capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet.

Sec. 20. RCW 15.58.220 and 1997 c 242 s 7 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant ((~~as defined in RCW 15.58.030(28)~~)). No person ((~~shall~~)) may act as a public pest control consultant without first obtaining a license from the director. The license ((~~shall~~)) expires annually on a date set by rule by the director. Application for a license ((~~shall~~)) must be on a form prescribed by the director and ((~~shall~~)) must be accompanied by a fee of ((~~twenty-five~~)) thirty-three dollars. Federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or a duly authorized representative, public pest control consultants licensed and working in the health vector field, and public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision.

Sec. 21. RCW 17.21.070 and 1997 c 242 s 11 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. It ((~~shall be~~)) is unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator license. Application for a commercial applicator license ((~~shall~~)) must be accompanied by a fee of ((~~one hundred seventy~~)) two hundred fifteen dollars and in addition a fee of twenty-seven dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides((~~: PROVIDED, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide~~)).

Sec. 22. RCW 17.21.110 and 1997 c 242 s 12 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. It ((~~shall be~~)) is unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under ((~~the provisions of~~)) this chapter for the application of any pesticide, without having obtained a commercial pesticide operator license from the director. The commercial pesticide operator license ((~~shall be~~)) is in addition to any other license or permit required by law for the operation or use of any such apparatus. Application for a commercial operator license ((~~shall~~)) must be accompanied by a fee of ((~~fifty~~)) sixty-seven dollars. ((~~The provisions of~~)) This section ((~~shall~~)) does not apply to any individual who is a licensed commercial pesticide applicator.

Sec. 23. RCW 17.21.122 and 1997 c 242 s 13 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. It ((~~shall be~~)) is unlawful for any person to act as a private-commercial pesticide applicator without having obtained a private-commercial pesticide applicator license from the director. Application for a private-commercial pesticide applicator license ((~~shall~~)) must be accompanied by a fee of ((~~twenty-five~~)) thirty-three dollars.

Sec. 24. RCW 17.21.126 and 2004 c 100 s 2 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. It is unlawful for any person to act as a private applicator, limited private applicator, or rancher private applicator without first complying with requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the pesticide applicator or other persons, for each specific pesticide use.

(1) Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides for which the private applicator, limited private applicator, or rancher private applicator is certified ((~~shall~~)) must be relative to hazards of the particular type of application, class of pesticides, or handling procedure. In determining these standards the director ((~~shall~~)) must take into consideration standards of the EPA and is authorized to adopt these standards by rule.

(2) Application for a private applicator or a limited private applicator license((~~, or the renewal of such licenses under RCW 17.21.132(4), shall~~)) must be accompanied by a fee of ((~~twenty-five~~)) thirty-three dollars. Application for a rancher private applicator license((~~, or renewal of such license under RCW 17.21.132(4), shall~~)) must be accompanied by a fee of ((~~seventy-five~~)) one hundred dollars. Individuals with a valid certified applicator license, pest control consultant license, or dealer manager license who qualify in the appropriate statewide or agricultural license categories are exempt from the private applicator, limited private applicator, or rancher private applicator fee requirements. However, licensed public pesticide operators, otherwise exempted from the public pesticide operator license fee requirement, are not also exempted from the fee requirements under this subsection.

Sec. 25. RCW 17.21.129 and 1997 c 242 s 15 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. Except as provided in RCW 17.21.203, it is unlawful for a person to use or supervise the use of any experimental use pesticide or any restricted use pesticide on small experimental plots for research purposes when no charge is made for the pesticide and its application without a demonstration and research applicator's license.

(1) Application for a demonstration and research license ((~~shall~~)) must be accompanied by a fee of ((~~twenty-five~~)) thirty three dollars.

(2) Persons licensed ((~~in accordance with~~)) under this section are exempt from the requirements of RCW 17.21.160, 17.21.170, and 17.21.180.

Sec. 26. RCW 17.21.220 and 1997 c 242 s 17 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. (1) All state agencies, municipal corporations, and public utilities or any other governmental ((~~agency shall be~~)) agencies are subject to ((~~the provisions of~~)) this chapter and its rules ((~~adopted thereunder concerning the application of pesticides~~)).

(2) It ((~~shall be~~)) is unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any restricted use pesticide, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. Application for a public operator license ((~~shall~~)) must be accompanied by a fee of ((~~twenty-~~

~~five~~)) thirty-three dollars. The fee ((~~shall~~)) does not apply to public operators licensed and working in the health vector field. The public operator license ((~~shall be~~)) is valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides that are not restricted use pesticides to control pests other than weeds.

(4) ((~~Such~~)) Agencies, municipal corporations, and public utilities ((~~shall be~~)) are subject to legal recourse by any person damaged by such application of any pesticide, and ((~~such~~)) action may be brought in the county where the damage or some part ((~~thereof~~)) of the damage occurred.

NEW SECTION. **Sec. 27.** DEPARTMENT OF AGRICULTURE—PESTICIDE FEES. Sections 15 through 26 of this act take effect January 1, 2009.

NEW SECTION. **Sec. 28.** A new section is added to chapter 16.36 RCW to read as follows:

DEPARTMENT OF AGRICULTURE—ANIMAL INSPECTION. (1) The director may adopt rules establishing fees for:

(a) The establishment and inspection of animal holding facilities authorized under this chapter;

(b) The inspection and monitoring of animals in authorized animal holding facilities; and

(c) Special inspections of animals or animal facilities that the director may provide at the request of the animal owner or interested persons.

(2) The fees shall, as closely as practicable, cover the cost of the service provided.

(3) All fees collected under this section shall be deposited in an account in the agricultural local fund and used to carry out the purposes of this chapter.

NEW SECTION. **Sec. 29.** A new section is added to chapter 18.185 RCW to read as follows:

DEPARTMENT OF LICENSING—BAIL BOND RECOVERY AGENTS. Pursuant to RCW 43.24.086 and 43.135.055, the department may increase fees as necessary to defray the cost of administering chapter —, Laws of 2008 (Engrossed Substitute Senate Bill No. 6347).

NEW SECTION. **Sec. 30.** DEPARTMENT OF FINANCIAL INSTITUTIONS. During fiscal years 2008 and 2009, the department of financial institutions may increase fees as follows:

(1) Credit union hourly fee for examination, investigation, and processing applications, by not more than 5.57% (FY 2009);

(2) Credit union quarterly asset assessment, by not more than 5.57% (FY 2009);

(3) Loan originator license amendment fee, to add a mortgage broker relationship, by not more than $50 (FY 2008);

(4) Mortgage broker license amendment fee, change of designated broker, by not more than $25 (FY 2008);

(5) Mortgage broker license application fee, main office location, by not more than $1 (FY 2008);

(6) Banks exam hourly fees, by not more than 5.53% (FY 2008);

(7) Banks semi-annual assessment, by not more than 5.53% (FY 2008);

(8) Banks semi-annual assessment, interstate assets, by not more than $183,321 (FY 2008).

NEW SECTION. **Sec. 31.** Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 32.** Except for sections 2 and 15 through 26 of this act, 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.

Passed by the House March 10, 2008.
Passed by the Senate March 12, 2008.
Approved by the Governor March 31, 2008.
Filed in Office of Secretary of State April 1, 2008.

CHAPTER 286

[Substitute House Bill 2602]

DOMESTIC VIOLENCE—VICTIMS—EMPLOYMENT LEAVE

AN ACT Relating to increasing the safety and economic security of victims of domestic violence, sexual assault, or stalking; amending RCW 7.69.030; adding a new chapter to Title 49 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) It is in the public interest to reduce domestic violence, sexual assault, and stalking by enabling victims to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize physical and emotional injuries, and to reduce the devastating economic consequences of domestic violence, sexual assault, and stalking to employers and employees. Victims of domestic violence, sexual assault, and stalking should be able to recover from and cope with the effects of such violence and participate in criminal and civil justice processes without fear of adverse economic consequences.

(2) One of the best predictors of whether a victim of domestic violence, sexual assault, or stalking will be able to stay away from an abuser is his or her degree of economic independence. However, domestic violence, sexual assault, and stalking often negatively impact victims' ability to maintain employment.

(3) An employee who is a victim of domestic violence, sexual assault, or stalking, or an employee whose family member is a victim, must often take leave from work due to injuries, court proceedings, or safety concerns requiring legal protection.

(4) Thus, it is in the public interest to provide reasonable leave from employment for employees who are victims of domestic violence, sexual assault, or stalking, or for employees whose family members are victims, to participate in legal proceedings, receive medical treatment, or obtain other necessary services.

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

(1) "Child," "spouse," "parent," "parent-in-law," "grandparent," and "sick leave and other paid time off" have the same meanings as in RCW 49.12.265.

(2) "Dating relationship" has the same meaning as in RCW 26.50.010.

(3) "Department," "director," "employer," and "employee" have the same meanings as in RCW 49.12.005.

(4) "Domestic violence" has the same meaning as in RCW 26.50.010.

(5) "Family member" means any individual whose relationship to the employee can be classified as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship.

(6) "Intermittent leave" and "reduced leave schedule" have the same meanings as in RCW 49.78.020.

(7) "Sexual assault" has the same meaning as in RCW 70.125.030.

(8) "Stalking" has the same meaning as in RCW 9A.46.110.

NEW SECTION. **Sec. 3.** An employee may take reasonable leave from work, intermittent leave, or leave on a reduced leave schedule, with or without pay, to:

(1) Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's family members including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking;

(2) Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking, or to attend to health care treatment for a victim who is the employee's family member;

(3) Obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, sexual assault, or stalking;

(4) Obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking, in which the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking; or

(5) Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault, or stalking.

NEW SECTION. **Sec. 4.** (1) As a condition of taking leave for any purpose described in section 3 of this act, an employee shall give an employer advance notice of the employee's intention to take leave. The timing of the notice shall be consistent with the employer's stated policy for requesting such leave, if the employer has such a policy. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, the employee or his or her designee must give notice to the employer no later than the end of the first day that the employee takes such leave.

(2) When an employee requests leave under section 3 of this act the employer may require that the request be supported by verification that:

(a) The employee or employee's family member is a victim of domestic violence, sexual assault, or stalking; and

(b) The leave taken was for one of the purposes described in section 3 of this act.

(3) If an employer requires verification, verification must be provided in a timely manner. In the event that advance notice of the leave cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, and the employer requires verification, verification must be provided to the employer within a reasonable time period during or after the leave.

(4) An employee may satisfy the verification requirement of this section by providing the employer with one or more of the following:

(a) A police report indicating that the employee or employee's family member was a victim of domestic violence, sexual assault, or stalking;

(b) A court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, or stalking, or other evidence from the court or the prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking;

(c) Documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional. The provision of documentation under this section does not waive or diminish the confidential or privileged nature of communications between a victim of domestic violence, sexual assault, or stalking with one or more of the individuals named in this subsection (4)(c) pursuant to RCW 5.60.060, 70.123.075, 70.123.076, or 70.125.065; or

(d) An employee's written statement that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of the purposes described in section 3 of this act.

(5) If the victim of domestic violence, sexual assault, or stalking is the employee's family member, verification of the familial relationship between the employee and the victim may include, but is not limited to, a statement from the employee, a birth certificate, a court document, or other similar documentation.

(6) An employee who is absent from work pursuant to section 3 of this act may elect to use the employee's sick leave and other paid time off, compensatory time, or unpaid leave time.

(7) An employee is required to provide only the information enumerated in subsection (2) of this section to establish that the employee's leave is protected under this chapter. An employee is not required to produce or discuss any information with the employer that is beyond the scope of subsection (2) of this section, or that would compromise the employee's safety or the safety of the employee's family member in any way, and an employer is prohibited from requiring any such disclosure.

(8)(a) Except as provided in (b) of this subsection, an employer shall maintain the confidentiality of all information provided by the employee under this section, including the fact that the employee or employee's family member is a victim of domestic violence, sexual assault, or stalking, that the employee has

requested or obtained leave under this chapter, and any written or oral statement, documentation, record, or corroborating evidence provided by the employee.

(b) Information given by an employee may be disclosed by an employer only if:

(i) Requested or consented to by the employee;

(ii) Ordered by a court or administrative agency; or

(iii) Otherwise required by applicable federal or state law.

NEW SECTION. **Sec. 5.** (1) The taking of leave under section 3 of this act may not result in the loss of any pay or benefits to the employee that accrued before the date on which the leave commenced.

(2) Upon an employee's return, an employer shall either:

(a) Restore the employee to the position of employment held by the employee when the leave commenced; or

(b) Restore the employee to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(3)(a) This section does not apply if the employment from which the individual takes leave is with a staffing company and the individual is assigned on a temporary basis to perform work at or services for another organization to support or supplement the other organization's workforces, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects, all under the direction and supervision of the organization to which the individual is assigned.

(b) This section does not apply if an employee was hired for a specific term or only to perform work on a discrete project, the employment term or project is over, and the employer would not otherwise have continued to employ the employee.

(4) To the extent allowed by law, an employer shall maintain coverage under any health insurance plan for an employee who takes leave under section 3 of this act. The coverage must be maintained for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had not taken the leave.

NEW SECTION. **Sec. 6.** (1) The rights provided in this act are in addition to any other rights provided by state and federal law.

(2) Nothing in this chapter shall be construed to discourage employers from adopting policies that provide greater leave rights to employees who are victims of domestic violence, sexual assault, or stalking than those required by this act.

(3) Nothing in this act shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement, or any employment benefit program or plan, that provides greater leave rights to employees than the rights provided by this act.

NEW SECTION. **Sec. 7.** Upon complaint by an employee, the director shall investigate to determine if there has been compliance with this chapter and the rules adopted under this chapter. If the investigation indicates that a violation has occurred, the director shall issue a notice of infraction. Appeal from the director's decision is governed by chapter 34.05 RCW.

NEW SECTION. **Sec. 8.** Any finding, determination, conclusion, declaration, or notice of infraction made for the purposes of enforcing this

chapter by the director or by an appeal tribunal, administrative law judge, or reviewing officer is neither conclusive nor binding in any civil action filed pursuant to section 12 of this act or in any other common law or civil action, regardless of whether the prior action was between the same or related parties or involved the same facts.

NEW SECTION. **Sec. 9.** (1) If an employer is found to have committed an infraction under section 7 of this act, the director may impose upon the employer a fine of up to five hundred dollars for the first infraction and a fine of up to one thousand dollars for each subsequent infraction committed within three years of a previous infraction.

(2) The director may also order an employer found to have committed an infraction under section 7 of this act to comply with section 5(2) of this act.

NEW SECTION. **Sec. 10.** (1) Except as provided in subsection (2) of this section, information contained in the department's complaint files and records of employees under this chapter is confidential and shall not be open to public inspection.

(2) Except as limited by state or federal statute or regulations:

(a) The information in subsection (1) of this section may be provided to public employees in the performance of their official duties; and

(b) A complainant or a representative of a complainant, be it an individual or an organization, may review a complaint file or receive specific information therefrom upon the presentation of the signed authorization of the complainant.

NEW SECTION. **Sec. 11.** No employer may discharge, threaten to discharge, demote, deny a promotion to, sanction, discipline, retaliate against, harass, or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee:

(1) Exercised rights under section 3 of this act;

(2) Filed or communicated to the employer an intent to file a complaint under section 7 or 12 of this act; or

(3) Participated or assisted, as a witness or otherwise, in another employee's attempt to exercise rights under section 3, 7, or 12 of this act.

NEW SECTION. **Sec. 12.** (1) Any employee deeming herself or himself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees.

(2) The remedy provided by this section is in addition to any common law remedy or other remedy that may be available to an employee.

(3) An employee is not required to exhaust administrative remedies before filing a civil action to enforce this chapter.

NEW SECTION. **Sec. 13.** The department shall include notice of the provisions of this chapter in the next reprinting of employment posters printed under RCW 49.78.340. Employers shall post this notice as required in RCW 49.78.340.

NEW SECTION. **Sec. 14.** Prosecuting attorney and victim/witness offices are encouraged to make information regarding this chapter available for distribution at their offices.

NEW SECTION. **Sec. 15.** The director shall adopt rules as necessary to implement this chapter.

Sec. 16. RCW 7.69.030 and 2004 c 120 s 8 are each amended to read as follows:

There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights, which apply to any criminal court and/or juvenile court proceeding:

(1) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

(2) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved;

(3) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

(4) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

(5) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

(6) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

(8) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

(9) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance. Victims of domestic violence, sexual assault, or stalking, as defined in section 2 of this act, shall be notified of their right to reasonable leave from employment under chapter 49. . . . RCW (sections 1 through 15 of this act);

(10) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim. This subsection applies if practical and if the presence of the crime victim advocate or support person does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

(11) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

(12) With respect to victims and survivors of victims, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing for felony convictions upon request by a victim or survivor;

(13) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution;

(14) With respect to victims and survivors of victims, to present a statement personally or by representation, at the sentencing hearing for felony convictions;

(15) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment; and

(16) With respect to victims and survivors of victims, to present a statement in person, via audio or videotape, in writing or by representation at any hearing conducted regarding an application for pardon or commutation of sentence.

NEW SECTION. **Sec. 17.** Sections 1 through 15 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec. 18.** 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.

Passed by the House March 8, 2008.
Passed by the Senate March 4, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 287

[Engrossed Senate Bill 6357]

SERVICE OF PROCESS—DOMESTIC VIOLENCE CASES

AN ACT Relating to service of process in domestic violence cases; amending RCW 26.50.050 and 26.50.130; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act shall be known as the Rebecca Jane Griego act. Recent tragic events have demonstrated the need to find ways to

make legal protections for domestic violence victims more accessible. On March 6, 2007, Rebecca Jane Griego, an employee at the University of Washington, had obtained a temporary protection order against the man who eventually shot her and then himself in a murder-suicide on April 2, 2007. However, because her stalker had evaded the police and service of process, Ms. Griego had to return to court numerous times and did not have the opportunity to have a hearing for a permanent protection order. Under current court rules, which vary by court, if a process server fails to serve process after an unspecified number of times, process may be served by publication or by mail. Establishing greater uniformity in the service of process of petitions for orders for protection or modifications of protection orders in domestic violence cases may help to protect the safety of future domestic violence victims.

Sec. 2. RCW 26.50.050 and 1995 c 246 s 6 are each amended to read as follows:

Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further acts of domestic violence. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. Except as provided in RCW 26.50.085 and 26.50.123, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require an additional attempt((~~s~~)) at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123. The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or by mail unless the petitioner requests additional time to attempt personal service. If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 26.50.070, 26.50.085, and 26.50.123.

Sec. 3. RCW 26.50.130 and 1984 c 263 s 14 are each amended to read as follows:

(1) Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection.

(2) Except as provided in RCW 26.50.085 and 26.50.123, personal service shall be made upon the nonmoving party not less than five court days prior to the hearing to modify.

(a) If timely personal service cannot be made, the court shall set a new hearing date and shall either require an additional attempt at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123.

(b) The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or by mail unless the moving party requests additional time to attempt personal service.

(c) If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order permitting service by publication or by mail.

(3) In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system.

Passed by the Senate March 10, 2008.
Passed by the House March 4, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 288

[Engrossed Second Substitute House Bill 2647]
CHILDREN'S SAFE PRODUCTS ACT

AN ACT Relating to the children's safe products act; amending RCW 43.70.660; adding a new chapter to Title 70 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

***NEW SECTION.** Sec. 1. Research shows that many toys and other children's products contain toxic chemicals, such as lead, cadmium, and phthalates that have been shown to cause harm to children's health and the environment. These chemicals have been linked to long-term health impacts, such as birth defects, reproductive harm, impaired learning, liver toxicity, and cancer. Because children's bodies are growing and developing, they are especially vulnerable to the effects of toxic chemicals. Regulation of toxic chemicals in children's toys and other products is woefully inadequate. To protect children's health, it is important to phase out the use of lead, cadmium, and phthalates in children's toys and other products and to begin collecting information on other chemicals that are present in toys and other products to determine whether further action is required.*

***Sec. 1 was vetoed. See message at end of chapter.**

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

(1) "Children's cosmetics" means cosmetics that are made for, marketed for use by, or marketed to children under the age of twelve. "Children's cosmetics" includes cosmetics that meet any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children;

(b) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children; or

(c) Sold in any of the following:

(i) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(ii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(2) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children under the age of twelve. "Children's jewelry" includes jewelry that meets any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children under the age of twelve;

(b) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

(c) Sized for children and not intended for use by adults; or

(d) Sold in any of the following:

(i) A vending machine;

(ii) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(3)(a) "Children's product" includes any of the following:

(i) Toys;

(ii) Children's cosmetics;

(iii) Children's jewelry;

(iv) A product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children; or

(v) Child car seats.

(b) "Children's product" does not include the following:

(i) Batteries;

(ii) Slings and catapults;

(iii) Sets of darts with metallic points;

(iv) Toy steam engines;

(v) Bicycles and tricycles;

(vi) Video toys that can be connected to a video screen and are operated at a nominal voltage exceeding twenty-four volts;

(vii) Chemistry sets;

(viii) Consumer electronic products, including but not limited to personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen, used to access interactive software and their associated peripherals;

(ix) Interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact disks;

(x) BB guns, pellet guns, and air rifles;

(xi) Snow sporting equipment, including skis, poles, boots, snow boards, sleds, and bindings;

(xii) Sporting equipment, including, but not limited to bats, balls, gloves, sticks, pucks, and pads;

(xiii) Roller skates;

(xiv) Scooters;

(xv) Model rockets;

(xvi) Athletic shoes with cleats or spikes; and

(xvii) Pocket knives and multitools.

(4) "Cosmetics" includes articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a component of such an article. "Cosmetics" does not include soap, dietary supplements, or food and drugs approved by the United States food and drug administration.

(5) "Department" means the department of ecology.

(6) "High priority chemical" means a chemical identified by a state agency, federal agency, or accredited research university, or other scientific evidence deemed authoritative by the department on the basis of credible scientific evidence as known to do one or more of the following:

(a) Harm the normal development of a fetus or child or cause other developmental toxicity;

(b) Cause cancer, genetic damage, or reproductive harm;

(c) Disrupt the endocrine system;

(d) Damage the nervous system, immune system, or organs or cause other systemic toxicity;

(e) Be persistent, bioaccumulative, and toxic; or

(f) Be very persistent and very bioaccumulative.

(7) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a children's product or an importer or domestic distributor of a children's product. For the purposes of this subsection, "importer" means the owner of the children's product.

(8) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

(9) "Toy" means a product designed or intended by the manufacturer to be used by a child at play.

(10) "Trade association" means a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit.

(11) "Very bioaccumulative" means having a bioconcentration factor or bioaccumulation factor greater than or equal to five thousand, or if neither are available, having a log Kow greater than 5.0.

(12) "Very persistent" means having a half-life greater than or equal to one of the following:

(a) A half-life in soil or sediment of greater than one hundred eighty days;

(b) A half-life greater than or equal to sixty days in water or evidence of long-range transport.

NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2009, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state a children's product or product component containing the following:

(a) Except as provided in subsection (2) of this section, lead at more than .009 percent by weight (ninety parts per million);

(b) Cadmium at more than .004 percent by weight (forty parts per million); or

(c) Phthalates, individually or in combination, at more than 0.10 percent by weight (one thousand parts per million).

(2) If determined feasible for manufacturers to achieve and necessary to protect children's health, the department, in consultation with the department of health, may by rule require that no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state a children's product or product component containing lead at more than .004 percent by weight (forty parts per million).

NEW SECTION. **Sec. 4.** (1) By January 1, 2009, the department, in consultation with the department of health, shall identify high priority chemicals that are of high concern for children after considering a child's or developing fetus's potential for exposure to each chemical. In identifying the chemicals, the department shall include chemicals that meet one or more of the following criteria:

(a) The chemical has been found through biomonitoring studies that demonstrate the presence of the chemical in human umbilical cord blood, human breast milk, human urine, or other bodily tissues or fluids;

(b) The chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(c) The chemical has been added to or is present in a consumer product used or present in the home.

(2) By January 1, 2009, the department shall identify children's products or product categories that may contain chemicals identified under subsection (1) of this section.

(3) By January 1, 2009, the department shall submit a report on the chemicals of high concern to children and the children's products or product categories they identify to the appropriate standing committees of the legislature. The report shall include policy options for addressing children's products that contain chemicals of high concern for children, including recommendations for additional ways to inform consumers about toxic chemicals in products, such as labeling.

NEW SECTION. **Sec. 5.** Beginning six months after the department has adopted rules under section 8(5) of this act, a manufacturer of a children's product, or a trade organization on behalf of its member manufacturers, shall provide notice to the department that the manufacturer's product contains a high priority chemical. The notice must be filed annually with the department and must include the following information:

(1) The name of the chemical used or produced and its chemical abstracts service registry number;

(2) A brief description of the product or product component containing the substance;

(3) A description of the function of the chemical in the product;

(4) The amount of the chemical used in each unit of the product or product component. The amount may be reported in ranges, rather than the exact amount;

(5) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and

(6) Any other information the manufacturer deems relevant to the appropriate use of the product.

Sec. 6. RCW 43.70.660 and 2001 c 257 s 2 are each amended to read as follows:

(1) The legislature authorizes the secretary to establish and maintain a product safety education campaign to promote greater awareness of products designed to be used by infants and children((~~, excluding toys,~~)) that:

(a) Are recalled by the United States consumer products safety commission;

(b) Do not meet federal safety regulations and voluntary safety standards; ((~~or~~))

(c) Are unsafe or illegal to place into the stream of commerce under the infant crib safety act, chapter 70.111 RCW; or

(d) Contain chemicals of high concern for children as identified under section 4 of this act.

(2) The department shall make reasonable efforts to ensure that this infant and children product safety education campaign reaches the target population. The target population for this campaign includes, but is not limited to, parents, foster parents and other caregivers, child care providers, consignment and resale stores selling infant and child products, and charitable and governmental entities serving infants, children, and families.

(3) The secretary may utilize a combination of methods to achieve this outreach and education goal, including but not limited to print and electronic media. The secretary may operate the campaign or may contract with a vendor.

(4) The department shall coordinate this infant and children product safety education campaign with child-serving entities including, but not limited to, hospitals, birthing centers, midwives, pediatricians, obstetricians, family practice physicians, governmental and private entities serving infants, children, and families, and relevant manufacturers.

(5) The department shall coordinate with other agencies and entities to eliminate duplication of effort in disseminating infant and children consumer product safety information.

(6) The department may receive funding for this infant and children product safety education effort from federal, state, and local governmental entities, child-serving foundations, or other private sources.

NEW SECTION. **Sec. 7.** (1) A manufacturer of products that are restricted under this chapter must notify persons that sell the manufacturer's products in this state about the provisions of this chapter no less than ninety days prior to the effective date of the restrictions.

(2) A manufacturer that produces, sells, or distributes a product prohibited from manufacture, sale, or distribution in this state under this chapter shall recall the product and reimburse the retailer or any other purchaser for the product.

(3) A manufacturer of children's products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in

the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.l05D.070.

(4) Retailers who unknowingly sell products that are restricted from sale under this chapter are not liable under this chapter.

***NEW SECTION.** Sec. 8. (1) Before the prohibitions under section 3 of this act take effect, the department shall prepare and distribute information to in-state and out-of-state manufacturers, to the maximum extent practicable, to assist them in identifying products prohibited for manufacture, sale, or distribution under this chapter.*

(2) The department must assist in-state retailers in identifying products restricted under this chapter.

(3) The department may require manufacturers to electronically file the notice required under section 5 of this act to the department that the manufacturer's product contains a high priority chemical.

(4) The department shall develop and publish a web site that provides consumers with information on the chemicals used in children's products, the reason the chemical has been identified as a high priority chemical, and any safer alternatives to the chemical.

(5) The department shall adopt rules to finalize the list of high priority chemicals that are of high concern for children identified in section 4(1) of this act by January 1, 2010.

***Sec. 8 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 9.** The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

NEW SECTION. **Sec. 10.** Sections 1 through 5 and 7 through 9 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 1 and Section 8, Engrossed Second Substitute House Bill 2647 entitled:

"AN ACT Relating to the children's safe products act."

Section 1 is an intent section that affirms the importance of regulating toxic chemicals in children's products. However, this section could be read to create obligations that are beyond what state government can deliver.

Section 8 requires the Department of Ecology to adopt a rule that identifies chemicals of high concern for children by January 1, 2010. This section is premature and preempts the process identified in Section 4. Section 4 directs the Department of Ecology to identify these chemicals and report to the Legislature on policy options for addressing the chemicals by January 1, 2009. The

Legislature should have the benefit of this report before the state proceeds to rulemaking to impose additional reporting and testing requirements.

For these reasons, I have vetoed Section 1 and Section 8 of Engrossed Second Substitute House Bill 2647.

Without careful implementation, this bill could adversely affect the availability of safe toys in our state, including important educational toys. To address this concern, I will establish an advisory group to work with the Departments of Ecology and Health to make sure we implement the bill with common sense, and to work on needed legislative fixes for next session. I will ask both large and small toymakers and children's products retailers, children's health experts, and public interest representatives to work together on these tasks, and I will invite state legislators to participate.

Section 2 applies the new standards in this bill to all components found in children's car seats, beginning in July 2009. Limited testing to date shows that children's car seats will meet the standards in the bill, and most seats are made with few metal components. Nonetheless, we must be absolutely certain this bill will not reduce the safety of car seats. I will ask the advisory group to take a close look at this issue and recommend rules and changes in law as needed.

I will ask the group to look at standards for both the outer surface of toys and the inside of toys, and to consider the timelines needed for the industry to implement these new standards. I will ask them to develop recommendations for legislation to ensure safe products in a manner that is practical and achievable for the industry.

Section 3 of the bill could be misinterpreted to prohibit toys with internal electronic components. I believe the bill does not prohibit these internal components, and was not intended to do so. Therefore, I direct the Department of Ecology, working with the advisory group, to conduct expedited rulemaking this year to clarify the effect of the bill accordingly.

Section 4 directs Ecology to develop a list of chemicals with potential adverse effects on children. The language in this section could result in a long list of chemicals, and future reporting requirements beyond those needed to ensure the safety of children's products. The department's fiscal analysis of the bill assumed no more than fifty chemicals would be identified, and the Legislature has funded their work accordingly. I ask the Department to focus on the highest priority chemicals, considering good science on the effects of chemicals on the health of children, and those chemicals likely to be found in children's products. The Department should rely on safety testing conducted in the European Union and California, to the extent they provide a reasonable assurance of safety, in order to help establish a degree of consistency for the industry.

Section 5 requires manufacturers to report on the chemicals found in their children's products. I have retained this portion of the bill, as a future tool for ensuring the safety of our children, as needed. By my veto of Section 8, as described above, I have removed the bill's 2010 deadline to begin mandatory reporting. This will give us time to review the extent of reporting, consider duplication with other testing currently done by the industry, and determine how to most efficiently implement these new requirements. It will also allow us to determine whether or not proprietary information should be reported and, if so, how we can ensure that protected trade secrets are not disclosed.

With the exception of Section 1 and Section 8, Engrossed Second Substitute House Bill 2647 is approved."

CHAPTER 289

[Engrossed Substitute Senate Bill 6580]

CLIMATE CHANGE—MITIGATION

AN ACT Relating to mitigating the impacts of climate change through the growth management act; amending RCW 36.70A.280; adding a new section to chapter 36.70A RCW; creating new sections; providing expiration dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the implications of a changed climate will affect the people, institutions, and

economies of Washington. The legislature also recognizes that it is in the public interest to reduce the state's dependence upon foreign sources of carbon fuels that do not promote energy independence or the economic strength of the state. The legislature finds that the state, including its counties, cities, and residents, must engage in activities that reduce greenhouse gas emissions and dependence upon foreign oil.

(2) The legislature further recognizes that: (a) Patterns of land use development influence transportation-related greenhouse gas emissions and the need for foreign oil; (b) fossil fuel-based transportation is the largest source of greenhouse gas emissions in Washington; and (c) the state and its residents will not achieve emission reductions established in RCW 80.80.020 without a significant decrease in transportation emissions.

(3) The legislature, therefore, finds that it is in the public interest of the state to provide appropriate legal authority, where required, and to aid in the development of policies, practices, and methodologies that may assist counties and cities in addressing challenges associated with greenhouse gas emissions and our state's dependence upon foreign oil.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The department must develop and provide to counties and cities a range of advisory climate change response methodologies, a computer modeling program, and estimates of greenhouse gas emission reductions resulting from specific measures. The advisory methodologies, computer modeling program, and estimates must reflect regional and local variations and the diversity of counties and cities planning under RCW 36.70A.040. Advisory methodologies, the computer modeling program, estimates, and guidance developed under this section must be consistent with recommendations developed by the advisory policy committee established in section 4 of this act.

(2) The department, in complying with this section, must work with the department of transportation on reductions of vehicle miles traveled through efforts associated with, and independent of, the process directed by RCW 47.01.— (section 8, chapter . . . (E2SHB 2815)), Laws of 2008.

(3) The department must complete and make available the advisory climate change response methodologies, computer program, and estimates required by this section by December 1, 2009. The advisory climate change response methodologies, computer program, and estimates must be updated two years before each completion date established in RCW 36.70A.130(4)(a).

(4) This section expires January 1, 2011.

NEW SECTION. **Sec. 3.** (1) A local government global warming mitigation and adaptation program is established. The program must be administered by the department of community, trade, and economic development and must conclude by June 30, 2010. The department must, through a competitive process, select three or fewer counties and six or fewer cities for the program. Counties selected must reflect a range of opportunities to address climate change in urbanizing, resource, or agricultural areas. Cities selected must reflect a range of sizes, geographic locations, and variations between those that are highly urbanized and those that are less so that have more residential dwellings than employment positions.

(2) The program is established to assist the selected counties and cities that: (a) Are addressing climate change through their land use and transportation planning processes; and (b) aspire to address climate change through their land use and transportation planning processes, but lack necessary resources to do so. The department of community, trade, and economic development may fund proposals to inventory and mitigate global warming emissions, or adapt to the adverse impacts of global warming, using criteria it develops to accomplish the objectives of this section and sections 2 and 4 of this act.

(3) The department of community, trade, and economic development must provide grants and technical assistance to aid the selected counties and cities in their efforts to anticipate, mitigate, and adapt to global warming and its associated problems. The department, in providing grants and technical assistance, must ensure that grants and assistance are awarded to counties and cities meeting the criteria established in subsection (2)(a) and (b) of this section.

(4) The department of community, trade, and economic development must provide a report of program findings and recommendations to the governor and the appropriate committees of the house of representatives and the senate by January 1, 2011. The report must also consider the positive and negative impacts to affordable housing, employment, transportation costs, and economic development that result from addressing the impacts of climate change at the local level.

(5) This section expires January 1, 2011.

NEW SECTION. **Sec. 4.** (1)(a) With the use of funds provided by specific appropriation, the department must prepare a report that includes:

(i) Descriptions of actions counties and cities are taking to address climate change issues. The department must use readily available information when completing the requirements of this subsection (1)(a)(i);

(ii) Recommendations of changes, if any, to chapter 36.70A RCW and other relevant statutes that would enable state and local governments to address climate change issues and the need to reduce dependence upon foreign oil through land use and transportation planning processes;

(iii) Descriptions of existing and potential computer modeling and other analytic and assessment tools that could be used by counties and cities in addressing their proprietary and regulatory activities to reduce greenhouse gas emissions and/or dependence upon foreign oil;

(iv) Considerations of positive and negative impacts to affordable housing, employment, transportation costs, and economic development that result from addressing the impacts of climate change at the local level;

(v) Assessments of state and local resources, financial and otherwise, needed to fully implement recommendations resulting from and associated with (a)(ii) and (iii) of this subsection; and

(vi) Recommendations for additional funding to implement the recommendations resulting from (a)(ii) of this subsection.

(b) The department must submit the report required by this section to the governor and the appropriate committees of the house of representatives and the senate by December 1, 2008.

(2)(a) In preparing the report required by this section, the department must convene an advisory policy committee, with members as provided in this subsection.

(i) The speaker of the house of representatives must appoint one member from each of the two largest caucuses of the house of representatives.

(ii) The president of the senate must appoint one member from each of the two largest caucuses of the senate.

(iii) Three elected official members representing counties and five elected official members representing cities. Members appointed under this subsection (2)(a)(iii) must represent each of the jurisdictional areas of growth management hearings boards and must be appointed by state associations representing counties and cities.

(iv) One member representing tribal governments, appointed by the governor.

(b) Recommendations produced by the department under this section must be approved by a majority of the voting members of the advisory policy committee.

(c) The advisory policy committee must have the following nonvoting ex officio members:

(i) One member representing the office of the governor;

(ii) One member representing an association of builders;

(iii) One member representing an association of real estate professionals;

(iv) One member representing an association of local government planners;

(v) One member representing an association of agricultural interests;

(vi) One member representing a nonprofit entity with experience in growth management and land use planning issues;

(vii) One member representing a statewide business association;

(viii) One member representing a nonprofit entity with experience in climate change issues;

(ix) One member representing a nonprofit entity with experience in mobility and transportation issues;

(x) One member representing an association of office and industrial properties;

(xi) One member representing an association of architects; and

(xii) One member representing an association of commercial forestry interests.

(d)(i) The department, in preparing the report and presenting information and recommendations to the advisory policy committee, must convene a technical support team, with members as provided in this subsection.

(A) The department of ecology must appoint one member representing the department of ecology.

(B) The department must appoint one member representing the department.

(C) The department of transportation must appoint one member representing the department of transportation.

(ii) The department, in complying with this subsection (2)(d), must consult with the professional staffs of counties and cities or their state associations, and regional transportation planning organizations and must solicit assistance from these staffs in developing materials and options for consideration by the advisory policy committee.

(3) Nominations for organizations represented in subsection (2) of this section must be submitted to the department by April 15, 2008.

(4) For purposes of this section, "department" means the department of community, trade, and economic development.

(5) This section expires December 31, 2008.

Sec. 5. RCW 36.70A.280 and 2003 c 332 s 2 are each amended to read as follows:

(1) A growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes a board to hear petitions alleging noncompliance with section 3 of this act; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, a board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by a board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by a board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as a "board adjusted population projection". None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. **Sec. 6.** This act is not intended to amend or affect chapter 353, Laws of 2007.

NEW SECTION.** ***Sec. 7.** ***This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

***Sec. 7 was vetoed. See message at end of chapter.**

***NEW SECTION.** Sec. 8. If specific funding for the purposes of section 2 of this act, referencing section 2 of this act by bill or chapter number and section number, is not provided by June 30, 2008, in the omnibus appropriations act, section 2 of this act is null and void.*

***Sec. 8 was vetoed. See message at end of chapter.**

***NEW SECTION.** Sec. 9. If specific funding for the purposes of section 3 of this act, referencing section 3 of this act by bill or chapter number and section number, is not provided by June 30, 2008, in the omnibus appropriations act, section 3 of this act is null and void.*

***Sec. 9 was vetoed. See message at end of chapter.**

***NEW SECTION.** Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.*

***Sec. 10 was vetoed. See message at end of chapter.**

Passed by the Senate March 10, 2008.
Passed by the House March 7, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 7, 8, 9 and 10, Engrossed Substitute Senate Bill 6580 entitled:

"AN ACT Relating to mitigating the impacts of climate change through the growth management act."

Section 2 requires the Department of Community, Trade and Economic Development to develop advisory methods for how counties and cities can evaluate and respond to climate change. In my view, this section of the bill does not create a new mandate for local governments, and does not provide grounds for new litigation under the Growth Management Act. The section appropriately recognizes the differences between our urban and rural settings, and requires the Department to follow the recommendations of the policy committee created in Section 4 of the bill. The bill directs the committee, which will include legislators, county and city officials, tribes, state agencies, business, agriculture, forestry, land use and other interests, to develop recommendations for whether and how climate change could be addressed in the GMA. Any further action on this topic is subject to future decisions by the Legislature. In addition, Section 6 of the bill ensures that the ongoing Ruckelshaus Center process related to agriculture and land use is not affected.

Section 3 establishes a voluntary pilot global warming mitigation and adaptation program for up to three counties and up to six cities. The Department is required to provide grants and technical assistance to local governments who are addressing climate change through their land use plans. Only partial funding was provided for the pilot program — enough for the Department to provide limited technical assistance, but not enough to provide state grant funds to the pilot jurisdictions. I ask the Department to encourage local jurisdictions that have their own resources to begin, on a voluntary basis, to address the role of land use and transportation planning in mitigating climate change. However, given the state's budget forecast, I strongly believe that additional state funding for the pilots will not be available next biennium.

Section 7 is an emergency clause to allow the bill to take effect immediately. An emergency clause is to be used where it is necessary for the immediate preservation of the public peace, health or safety or whenever it is essential for the support of state government. The clause would allow the Department to promptly convene a committee and begin work on a report due later this year. However, there was no supplemental funding provided to implement the bill in fiscal year 2008. As a result, the emergency clause is not needed.

Section 8 would declare this act null and void if funding were not provided specifically for Section 2 of the bill (advisory methods) in the omnibus appropriations act. Section 9 would declare this act null and void if funding were not provided specifically for Section 3 of the bill (pilot program) in the omnibus appropriations act. Section 10 of the bill would declare this act null and void if funding were not provided specifically for this measure in the omnibus appropriations act. Funding for this bill, including Sections 2 and 3, was included in the omnibus appropriations act. As a result, the null and void clauses are not needed.

For these reasons, I have vetoed Sections 7, 8, 9 and 10 of Engrossed Substitute Senate Bill 6580.

With the exception of Sections 7, 8, 9 and 10, Engrossed Substitute Senate Bill 6580 is approved."

CHAPTER 290

[Second Substitute House Bill 1273]

FINANCIAL FRAUD

AN ACT Relating to financial fraud; amending RCW 62A.9A-525; adding a new section to chapter 43.330 RCW; making an appropriation; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The financial fraud and identity theft crimes investigation and prosecution program is created in the department of community, trade, and economic development. The department shall:

(a) Appoint members of the financial fraud task forces created in subsection (2) of this section;

(b) Administer the account created in subsection (3) of this section; and

(c) By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include recommendations on changes to the program, including expansion.

(2)(a) The department shall establish two regional financial fraud and identity theft crime task forces that include a central Puget Sound task force that includes King and Pierce counties, and a Spokane county task force. Each task force must be comprised of local law enforcement, county prosecutors, representatives of the office of the attorney general, financial institutions, and other state and local law enforcement.

(b) The department shall appoint: (i) Representatives of local law enforcement from a list provided by the Washington association of sheriffs and police chiefs; (ii) representatives of county prosecutors from a list provided by the Washington association of prosecuting attorneys; and (iii) representatives of financial institutions.

(c) Each task force shall:

(i) Hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;

(ii) Set priorities for the activities for the task force;

(iii) Apply to the department for funding to (A) hire prosecutors and/or law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; and (B) acquire other needed resources to conduct the work of the task force;

(iv) Establish outcome-based performance measures; and

(v) Twice annually report to the department regarding the activities and performance of the task force.

(3) The financial fraud and identity theft crimes investigation and prosecution account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenue to the account may include appropriations, revenues generated by the surcharge imposed in section 2 of this act, federal funds, and any other gifts or grants. Expenditures from the account may be used only to support the activities of the financial fraud and identity theft crime investigation and prosecution task forces and the program administrative expenses of the department, which may not exceed ten percent of the amount appropriated.

(4) For purposes of this section, "financial fraud and identity theft crimes" includes those that involve: Check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized counterfeit check rings, and organized identification theft rings.

Sec. 2. RCW 62A.9A-525 and 2000 c 250 s 9A-525 are each amended to read as follows:

(a) **Filing with department of licensing.** Except as otherwise provided in subsection (b) or (e) of this section, the fee for filing and indexing a record under this part is the fee set by department of licensing rule pursuant to subsection (f) of this section. Without limitation, different fees may be charged for:

(1) A record that is communicated in writing and consists of one or two pages;

(2) A record that is communicated in writing and consists of more than two pages, which fee may be a multiple of the fee described in (1) of this subsection; and

(3) A record that is communicated by another medium authorized by department of licensing rule, which fee may be a fraction of the fee described in (1) of this subsection.

(b) **Filing with other filing offices.** Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this part that is filed in a filing office described in RCW 62A.9A-501(a)(1) is the fee that would otherwise be applicable to the recording of a mortgage in that filing office, as set forth in RCW 36.18.010.

(c) **Number of names.** The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b) of this section.

(d) **Response to information request.** The fee for responding to a request for information from a filing office, including for issuing a certificate showing, or otherwise communicating, whether there is on file any financing statement naming a particular debtor, is the fee set by department of licensing rule pursuant to subsection (f) of this section; provided however, if the request is to a filing office described in RCW 62A.9A-501(a)(1) and that office charges a different fee, then that different fee shall apply instead. Without limitation, different fees may be charged:

(1) If the request is communicated in writing;

(2) If the request is communicated by another medium authorized by filing-office rule; and

(3) If the request is for expedited service.

(e) **Record of mortgage.** This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under RCW 62A.9A-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) **Filing office rules.** (1) The department of licensing shall by rule set the fees called for in this section for filing with, and obtaining information from, the department of licensing. The director shall set fees at a sufficient level to defray the costs of administering the program. All receipts from fees collected under this title, except fees for services covered under RCW 62A.9A-501(a)(1), shall be deposited to the uniform commercial code fund in the state treasury. Moneys in the fund may be spent only after appropriation and may be used only to administer the uniform commercial code program.

(2) In addition to fees on filings authorized under this section, the department of licensing shall impose a surcharge of eight dollars per filing for paper filings and a surcharge of three dollars per filing for electronic filings. The department shall deposit the proceeds from these surcharges in the financial fraud and identity theft crimes investigation and prosecution account created in section 1 of this act.

(g) **Transition.** This section continues the fee-setting authority conferred on the department of licensing by former RCW 62A.9-409 and nothing herein shall invalidate fees set by the department of licensing under the authority of former RCW 62A.9-409.

NEW SECTION. **Sec. 3.** The sum of four hundred eighty-eight thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2009, from the financial fraud and identity theft crimes investigation and prosecution account to the department of community, trade, and economic development for the purposes of this act.

NEW SECTION. **Sec. 4.** This act expires July 1, 2015.

Passed by the House March 12, 2008.
Passed by the Senate March 12, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 291

[Second Engrossed Second Substitute House Bill 2176]
INTERPRETER SERVICES—COURTS

AN ACT Relating to interpreter services; amending RCW 2.42.120, 2.43.040, and 2.56.030; and adding a new section to chapter 2.43 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 2.43 RCW to read as follows:

(1) Each trial court organized under this title and Titles 3 and 35 RCW must develop a written language assistance plan to provide a framework for the provision of interpreter services for non-English-speaking persons accessing the

court system in both civil and criminal legal matters. The language assistance plan must include, at a minimum, provisions addressing the following:

(a) Procedures to identify and assess the language needs of non-English-speaking persons using the court system;

(b) Procedures for the appointment of interpreters as required under RCW 2.43.030. Such procedures shall not require the non-English-speaking person to make the arrangements for the interpreter to appear in court;

(c) Procedures for notifying court users of the right to and availability of interpreter services. Such information shall be prominently displayed in the courthouse in the five foreign languages that census data indicates are predominate in the jurisdiction;

(d) A process for providing timely communication with non-English speakers by all court employees who have regular contact with the public and meaningful access to court services, including access to services provided by the clerk's office;

(e) Procedures for evaluating the need for translation of written materials, prioritizing those translation needs, and translating the highest priority materials. These procedures should take into account the frequency of use of forms by the language group, and the cost of orally interpreting the forms;

(f) A process for requiring and providing training to judges, court clerks, and other court staff on the requirements of the language assistance plan and how to effectively access and work with interpreters; and

(g) A process for ongoing evaluation of the language assistance plan and monitoring of the implementation of the language assistance plan.

(2) Each court, when developing its language assistance plan, must consult with judges, court administrators and court clerks, interpreters, and members of the community, such as domestic violence organizations, pro bono programs, courthouse facilitators, legal services programs, and/or other community groups whose members speak a language other than English.

(3) Each court must provide a copy of its language assistance plan to the interpreter commission established by supreme court rule for approval prior to receiving state reimbursement for interpreter costs under this chapter.

(4) Each court receiving reimbursement for interpreter costs under RCW 2.42.120 or 2.43.040 must provide to the administrative office of the courts by November 15, 2009, a report detailing an assessment of the need for interpreter services for non-English speakers in court-mandated classes or programs, the extent to which interpreter services are currently available for court-mandated classes or programs, and the resources that would be required to ensure that interpreters are provided to non-English speakers in court-mandated classes or programs. The report shall also include the amounts spent annually on interpreter services for fiscal years 2005, 2006, 2007, 2008, and 2009. The administrative office of the courts shall compile these reports and provide them along with the specific reimbursements provided, by court and fiscal year, to the appropriate committees of the legislature by December 15, 2009.

Sec. 2. RCW 2.42.120 and 1985 c 389 s 12 are each amended to read as follows:

(1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury

proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(3) If a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.

(4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

(7) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where a qualified interpreter is appointed for a hearing impaired person by a judicial officer in a proceeding before a court under subsection (1), (2), or (3) of this section in compliance with the provisions of RCW 2.42.130 and 2.42.170.

Sec. 3. RCW 2.43.040 and 1989 c 358 s 4 are each amended to read as follows:

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings,

grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.

(5) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where an interpreter is appointed by a judicial officer in a proceeding before a court at public expense and:

(a) The interpreter appointed is an interpreter certified by the administrative office of the courts or is a qualified interpreter registered by the administrative office of the courts in a noncertified language, or where the necessary language is not certified or registered, the interpreter has been qualified by the judicial officer pursuant to this chapter;

(b) The court conducting the legal proceeding has an approved language assistance plan that complies with section 1 of this act; and

(c) The fee paid to the interpreter for services is in accordance with standards established by the administrative office of the courts.

Sec. 4. RCW 2.56.030 and 2007 c 496 s 302 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in

which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district court judge positions under an objective workload analysis. The results of the objective workload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that an objective workload analysis become the basis for creating additional district and superior court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21)(a) Administer and distribute amounts appropriated from the equal justice subaccount under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met;

(22) Subject to the availability of funds specifically appropriated therefor, assist courts in the development and implementation of language assistance plans required under section 1 of this act.

Passed by the House March 8, 2008.
Passed by the Senate March 6, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 292

[House Bill 2467]

FERTILIZERS—REGISTRATION—ADMINISTRATION

AN ACT Relating to the registration and administration of fertilizers; amending RCW 15.54.340, 15.54.362, and 15.54.433; and reenacting and amending RCW 15.54.325.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 15.54.325 and 1999 c 383 s 1 and 1999 c 382 s 1 are each reenacted and amended to read as follows:

(1) No person may distribute in this state a commercial fertilizer until it has been registered with the department by the producer, importer, or packager of that product. ((~~A bulk fertilizer does not require registration if all commercial fertilizer products contained in the final product are registered.~~))

(2) An application for registration ((~~shall~~)) must be made on a form furnished by the department and ((~~shall~~)) must include the following:

(a) The product name;

(b) The brand and grade;

(c) The guaranteed analysis;

(d) Name, address, and phone number of the registrant;

(e) ((~~Labels~~)) A label for each product being registered;

(f) Identification of those products that are (i) waste-derived fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer materials containing phosphate;

(g) The concentration of each metal, for which standards are established under RCW 15.54.800, in each product being registered, unless the product is (i) anhydrous ammonia or a solution derived solely from dissolving anhydrous ammonia in water, (ii) a customer-formula fertilizer containing only registered commercial fertilizers, or (iii) a packaged commercial fertilizer whose plant nutrient content is present in the form of a single chemical compound which is registered in compliance with this chapter and the product is not blended with any other material. The provisions of (g)(i) of this subsection do not apply if the anhydrous ammonia is derived in whole or in part from waste such that the fertilizer is a "waste-derived fertilizer" as defined in RCW 15.54.270. Verification of a registration relied on by an applicant under (g)(iii) of this subsection must be submitted with the application;

(h) If a waste-derived fertilizer((~~s and~~)) or micronutrient fertilizer((~~s shall include at a minimum~~)), information to ensure the product complies with chapter 70.105 RCW and the resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.; and

(i) Any other information required by the department by rule.

(3) All companies planning to mix customer-formula fertilizers shall include the statement "customer-formula grade mixes" under the column headed "product name" on the product registration application form. All customer-formula fertilizers sold under one brand name shall be considered one product.

(4) ((~~All registrations issued by the department for registrants whose names begin with the letters A through M expire on June 30th of even-numbered years and all registrations issued by the department for registrants whose names begin with the letters N through Z expire on June 30th of odd-numbered years, unless otherwise specified in rule adopted by the director~~)) Registrations are issued by the department for a two-year period beginning on July 1st of a given year and ending twenty-four months later on July 1st, except that registrations issued to a registrant who applies to register an additional product during the last twelve months of the registrant's period expire on the next July 1st.

(5) An application for registration ((~~shall~~)) must be accompanied by a fee of fifty dollars for each product((~~, except that an applicant whose registration expires in even-numbered years shall pay a fee of twenty-five dollars for each product for the registration period ending June 30, 2000~~)).

(6) Application for renewal of registration is due July 1st of each registration period. If an application for renewal ((~~of the product registration provided for in this section is not filed prior to July 1st of the registration renewal year~~)) is not received by the department by the due date, a late fee of ten dollars per product ((~~shall be assessed and~~)) is added to the original fee and ((~~shall~~)) must be paid by the applicant before the renewal registration ((~~shall~~)) may be issued. ((~~The assessment of this late fee shall not prevent the department from taking any other action as provided for in this chapter. The~~)) A late fee ((~~shall~~)) does not apply if the applicant furnishes an affidavit that he or she has

not distributed this commercial fertilizer subsequent to the expiration of ((~~his or her~~)) the prior registration. Payment of a late fee does not prevent the department from taking any action authorized by this chapter for the violation.

Sec. 2. RCW 15.54.340 and 2003 c 15 s 1 are each amended to read as follows:

(1) Any packaged commercial fertilizer distributed in this state ((~~shall~~)) that is not a customer-formula fertilizer must have placed on or affixed to the package a label ((~~setting forth~~)) stating in clearly legible and conspicuous form the following information:

(a) The net weight;

(b) The product name, brand, and grade. The grade is not required if no primary nutrients are claimed;

(c) The guaranteed analysis;

(d) The name and address of the registrant or licensee. The name and address of the manufacturer, if different from the registrant or licensee, may also be stated;

(e) Any information required under WAC ((~~296-62-054~~)) 296-307-560 through 296-307-56050;

(f) A statement, established by rule, referring persons to the department's Uniform Resource Locator (URL) internet address where data regarding the metals content of the product is located; and

(g) Other information as required by the department by rule.

(2) ((~~If a~~)) Any commercial fertilizer that is distributed in bulk((~~,~~)) in this state that is not a customer-formula fertilizer must be accompanied by a written or printed statement ((~~of~~)) that includes the information required by subsection (1) of this section ((~~shall accompany delivery~~)) and must be supplied to the purchaser at the time of delivery.

(3) Each delivery of a customer-formula fertilizer ((~~shall be subject to containing those ingredients specified by the purchaser, which ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant or licensee for a period of twelve months and shall be available to the department upon request: PROVIDED, That each such delivery shall~~)) in this state must be accompanied by either a statement, invoice, a delivery slip, or a label if bagged, containing the following information: The net weight; the brand; the name and amount of each ingredient; the guaranteed analysis which may be stated to the nearest tenth of a percent or to the next lower whole number; the name and address of the registrant or licensee, or manufacturer, or both; and the name and address of the purchaser.

(4) Each delivery of a customer-formula fertilizer must contain the ingredients specified by the purchaser. A record of the invoice or statement of each delivery must be kept by the registrant or licensee for twelve months and must be available to the department upon request.

Sec. 3. RCW 15.54.362 and 1993 c 183 s 7 are each amended to read as follows:

(1) Every registrant or licensee who distributes commercial fertilizer in this state ((~~shall~~)) must file a semiannual report on forms provided by the department ((~~setting forth~~)) stating the number of net tons of each commercial fertilizer

((~~so~~)) distributed in this state. ((~~The reports will cover the following periods: January 1 through June 30 and July 1 through December 31 of each year.~~))

(a) For the period January 1st through June 30th of each year, the report is due on July 31st of that year; and

(b) For the period July 1st through December 31st of each year, the report is due on January 31st of the following year.

Upon permission of the department, ((~~an annual statement under oath may be filed for the annual reporting period of July 1 through June 30 of any year by any~~)) a person distributing ((~~within~~)) in the state less than one hundred tons for each six-month period during any ((~~calendar year, and upon filing such statement, such person shall pay the inspection fee required under RCW 15.54.350~~)) annual reporting period of July 1st through June 30th may submit an annual report on a form provided by the department that is due on the July 31st following the period. The department may accept sales records or other records accurately reflecting the tonnage sold and verifying such reports.

(2) Each person responsible for the payment of inspection fees for commercial fertilizer distributed in this state ((~~shall~~)) must include the inspection fees with ((~~the report on the same dates and for the same reporting periods mentioned in subsection (1) of this section~~)) each semiannual or annual report. If in ((~~one year~~)) an annual reporting period a registrant or licensee distributes less than eighty-three tons of commercial fertilizer or less than one hundred sixty-seven tons of commercial lime or equivalent combination of the two, the registrant or licensee ((~~shall~~)) must pay the minimum inspection fee((~~. The minimum inspection fee shall be~~)) of twenty-five dollars ((~~per year~~)).

(3) The department may, upon request, require registrants or licensees to furnish information setting forth the net tons of commercial fertilizer distributed to each location in this state.

(4) ((~~Semiannual or annual reports filed after the close of the corresponding reporting period shall pay a late filing fee of twenty-five dollars. Inspection fees which are due and have not been remitted to the department by the due date shall have a late-collection fee of ten percent, but not less than twenty-five dollars, added to the amount due when payment is finally made. The assessment of this late collection fee shall not prevent the department from taking any other action as provided for in this chapter.~~))

(a) If a complete report is not received by the due date, the person responsible for filing the report must pay a late fee of twenty-five dollars.

(b) If the appropriate inspection fees are not received by the due date, the person responsible for paying the inspection fee must pay a late fee equal to ten percent of the inspection fee owed or twenty-five dollars, whichever is greater.

(c) Payment of a late fee does not prevent the department from taking any other action authorized by this chapter for the violation.

(5) It ((~~shall be~~)) is a misdemeanor for any person to divulge any information provided under this section that would reveal the business operation of the person making the report. However, nothing contained in this subsection may be construed to prevent or make unlawful the use of information concerning the business operations of a person in any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for the collection of unpaid inspection fees, which action is ((~~hereby~~)) authorized and which shall be as an action at law in the name of the director of the department.

Sec. 4. RCW 15.54.433 and 1998 c 36 s 21 are each amended to read as follows:

(1) The department shall ((~~expand its~~)) maintain a fertilizer database ((~~to include additional~~)) that includes the information required for registration under RCW 15.54.325 and 15.54.330.

(2) Except for confidential information under RCW 15.54.362 regarding fertilizer tonnages distributed in the state, information in the fertilizer database ((~~shall~~)) must be made available to the public upon request.

(3) The department, and the department of ecology in consultation with the department of health, shall biennially prepare a report to the legislature presenting information on levels of nonnutritive substances in fertilizers((~~. Results from~~)) and the results of any agency testing of products ((~~that were sampled shall also be displayed~~)). The first ((~~such~~)) report ((~~will~~)) must be provided to the legislature by December 1, 1999.

(4) ((~~After July 1, 1999,~~)) The department shall post on the internet the information contained in applications for fertilizer registration.

Passed by the House March 10, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 293

[Second Substitute House Bill 2507]

EMERGENCY SYSTEMS—HIGHER EDUCATION INSTITUTIONS

AN ACT Relating to expanding the statewide first responder building mapping information system to higher education facilities; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that coordinated planning ensures preparation for all future crises. While it is impossible to eliminate the threats posed to our higher education campuses by crime or disaster, natural or person-caused, it is necessary to mitigate impact through effective all hazard emergency preparedness. The legislature also finds that notifying college and university campus communities of an impending, ongoing, or diffused emergency situation is one of the most critical capabilities that a college or university must have. But how a higher education institution achieves the ability to alert students, faculty, and staff quickly, accurately, and dependably in an emergency situation is not a one size fits all solution. While colleges and universities should maintain their autonomy in choosing how to address safety and security risks, certain consistent protocols are essential for making campuses safer. The legislature further finds that higher education institutions need to ensure that campus law enforcement or security communications equipment, as well as communication systems used by colleges and universities during an emergency, meet technical standards and are compatible with other responding agencies' communication systems. Therefore, it is the intent of the legislature to carefully examine best safety practices at the state's institutions of higher education, examine the use of technology to improve emergency communications, and consider the financial implications of safety and security

enhancement plans, as well as the funding sources to support them, in order to maximize limited resources and public benefit.

NEW SECTION. **Sec. 2.** The Washington state patrol and the Washington association of sheriffs and police chiefs, in consultation with the state board for community and technical colleges, the council of presidents, the independent colleges of Washington, and the department of information services, shall conduct a needs analysis and fiscal impact study of potential college and university campus security enhancements, including the addition of two-year and four-year public and independent higher education institutions to the statewide first responder building mapping information system as provided under RCW 36.28A.060.

(1) The study shall:

(a) Assess public and independent colleges and universities to determine whether campus emergency and critical incident plans are up-to-date, comprehensive, and regularly exercised;

(b) Evaluate the potential risks associated with individual types of buildings on all campuses and recommend buildings that are a high priority for adding to the statewide first responder building mapping information system;

(c) Determine the costs and timelines associated with adding priority campus buildings to the statewide first responder building mapping information system; and

(d) Assess campus emergency notification systems or devices, including emergency radio systems, to determine functionality in the campus environment, the adequacy of coverage throughout a campus, and operational compatibility with the radio systems and frequencies utilized by state and local responding agencies.

(2) The Washington state patrol and the Washington association of sheriffs and police chiefs shall report findings and recommendations to the governor and the legislature by November 1, 2008.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus capital appropriations act, this act is null and void.

Passed by the House March 12, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 294

[House Bill 2540]

INDIVIDUALS WITH DISABILITIES—HUNTING AND FISHING—ADVISORY COMMITTEE

AN ACT Relating to the advisory committee representing the interests of hunters and fishers with disabilities; and amending RCW 77.04.150.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 77.04.150 and 2005 c 149 s 1 are each amended to read as follows:

(1) The commission must appoint an advisory committee to generally represent the interests of ((~~disabled~~)) hunters and fishers with disabilities on matters including, but not limited to, special hunts, modified sporting equipment, access to public land, and hunting and fishing opportunities. The advisory committee is composed of seven members, each being ((~~a person~~)) an individual with a disability. The advisory committee members must represent the entire state. The members must be appointed so that each of the six department administrative regions, as they existed on January 1, ((~~2001~~)) 2007, are represented with one resident on the advisory committee. One additional member must be appointed at large. The chair of the advisory committee must be a member of the advisory committee and shall be selected by the members of the advisory committee.

(2) For the purposes of this section, ((~~a person~~)) an individual with a disability includes but is not limited to:

(a) ((~~A permanently disabled person~~)) An individual with a permanent disability who is not ambulatory over natural terrain without a prosthesis or assistive device;

(b) ((~~A permanently disabled person~~)) An individual with a permanent disability who is unable to walk without the use of assistance from a brace, cane, crutch, wheelchair, scooter, walker, or other assistive device;

(c) ((~~A person~~)) An individual who has a cardiac condition to the extent that the ((~~person's~~)) individual's functional limitations are severe;

(d) ((~~A person~~)) An individual who is restricted by lung disease to the extent that the ((~~person's~~)) individual's functional limitations are severe;

(e) ((~~A person~~)) An individual who is totally blind or visually impaired; or

(f) ((~~A permanently disabled person~~)) An individual with a permanent disability with upper or lower extremity impairments who does not have the use of one or both upper or lower extremities.

(3) The members of the advisory committee are appointed for a four-year term. If a vacancy occurs on the advisory committee prior to the expiration of a term, the commission must appoint a replacement within sixty days to complete the term.

(4) The advisory committee must meet at least semiannually, and may meet at other times as requested by a majority of the advisory committee members for any express purpose that directly relates to the duties set forth in subsection (1) of this section. A majority of members currently serving on the advisory committee constitutes a quorum. The department must provide staff support for all official advisory committee meetings.

(5) Each member of the advisory committee shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(6) The members of the advisory committee, or individuals acting on their behalf, are immune from civil liability for official acts performed in the course of their duties.

(7) ((~~The provisions of this section constitute a pilot program that expires July 1, 2008. On~~)) Beginning December 1, ((~~2007~~)) 2011, and again at least once every four years, the commission shall present a report to the appropriate legislative committees detailing the effectiveness of the advisory committee((~~,~~)) including, but not limited to, the participation levels, general interest, quality of

advice, and recommendations as to the advisory committee's continuance or modification.

Passed by the House February 1, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 295

[Engrossed Second Substitute House Bill 2549]

PRIMARY CARE—PILOT PROJECTS

AN ACT Relating to establishing patient-centered primary care pilot projects; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that our primary care system is severely faltering and the number of people choosing primary care as a profession is decreasing dramatically. Primary care providers include family medicine and general internal medicine physicians, pediatricians, naturopathic physicians, advanced registered nurse practitioners, and physician assistants. A strong primary care system has been shown to improve health outcomes and quality and to reduce overall health system costs. To improve the health and well-being of the people in the state of Washington; enhance the recruitment, retention, performance, and satisfaction of primary providers; and control costs, our statewide system of primary care providers needs to be rapidly expanded, improved, and supported, in line with current research and professional innovations.

The legislature further finds that a medical home can best deliver the patient-centered approach that can manage chronic diseases, address acute illnesses, and provide effective prevention. A medical home is a place where health care is accessible and compassionate. It is built on evidence-based strategies with a team approach. Each patient receives medically necessary acute, chronic, prevention, and wellness services, as well as other medically appropriate dental and behavioral services, and community support services, all which are tailored to the individual needs of the patient. Development and maintenance of medical homes require changes in the reimbursement of primary care providers in medical home practices. There is a critical need to identify reimbursement strategies to appropriately finance this model of delivering medical care.

NEW SECTION. **Sec. 2.** (1) Within funds appropriated for this purpose, and with the goal of catalyzing and providing financial incentives for the rapid expansion of primary care practices that use the medical home model, the department of health shall offer primary care practices an opportunity to participate in a medical home collaborative program, as authorized under RCW 43.70.533. Qualifying primary care practices must be willing and able to adopt and maintain medical home models, as defined by the department of social and health services in its November 2007 report to the legislature concerning implementation of chapter 5, Laws of 2007.

(2) The collaborative program shall be structured to promote adoption of medical homes in a variety of primary care practice settings throughout the state and consider different populations, geographic locations, including at least one location that would agree to operate extended hours, which could include nights or weekends, and other factors to allow a broad application of medical home adoption, including rural communities and areas that are medically underserved. The collaborative program shall assist primary care practices to implement the medical home requirements and provide the full complement of primary care services as established by the medical home definition in this section. Key goals of the collaborative program are to:

(a) Develop common and minimal core components to promote a reasonable level of consistency among medical homes in the state;

(b) Allow for standard measurement of outcomes; and

(c) Promote adoption, and use of the latest techniques in effective and cost-efficient patient-centered integrated health care.

Medical home collaborative participants must agree to provide data on patients' experience with the program and health outcome measures. The department of health shall consult with the Puget Sound health alliance and other interested organizations when selecting specific measures to be used by primary care providers participating in the medical home collaborative.

(3) The medical home collaborative shall be coordinated with the Washington health information collaborative, the health information infrastructure advisory board, and other efforts directed by RCW 41.05.035. If the health care authority makes grants to primary care practices for implementation of health information technology during state fiscal year 2009, it shall make an effort to make these grants to primary care providers participating in the medical home collaborative.

(4) The department of health shall issue an annual report to the health care committees of the legislature on the progress and outcome of the medical home collaborative. The reports shall include:

(a) Effectiveness of the collaborative in promoting medical homes and associated health information technology, including an assessment of the rate at which the medical home model is being adopted throughout the state;

(b) Identification of best practices; an assessment of how the collaborative participants have affected health outcomes, quality of care, utilization of services, cost-efficiencies, and patient satisfaction;

(c) An assessment of how the pilots improve primary care provider satisfaction and retention; and

(d) Any additional legislative action that would promote further medical home adoption in primary care settings.

The first annual report shall be submitted to the legislature by January 1, 2009, with the final report due to the legislature by December 31, 2011.

NEW SECTION. **Sec. 3.** (1) As part of the five-year plan to change reimbursement required under section 1, chapter 259, Laws of 2007, the health care authority and department of social and health services must expand their assessment on changing reimbursement for primary care to support adoption of medical homes to include medicare, other federal and state payors, and third-party payors, including health carriers under Title 48 RCW and other self-funded payors.

(2) The health care authority shall also collaborate with the Puget Sound health alliance, if that organization pursues a project on medical home reimbursement. The goal of the collaboration is to identify appropriate medical home reimbursement strategies and provider performance measurements for all payors, such as providing greater reimbursement rates for primary care physicians, and to garner support among payors and providers to adopt payment strategies that support medical home adoption and use.

(3) The health care authority shall work with providers to develop reimbursement mechanisms that would reward primary care providers participating in the medical home collaborative program that demonstrate improved patient outcomes and provide activities including, but not limited to, the following:

(a) Ensuring that all patients have access to and know how to use a nurse consultant;

(b) Encouraging female patients to have a mammogram on the evidence-based recommended schedule;

(c) Effectively implementing strategies designed to reduce patients' use of emergency room care in cases that are not emergencies;

(d) Communicating with patients through electronic means; and

(e) Effectively managing blood sugar levels of patients with diabetes.

(4) The health care authority and the department of social and health services shall report their findings to the health care committees of the legislature by January 1, 2009, with a recommended timeline for adoption of payment and provider performance strategies and recommended legislative changes should legislative action be necessary.

NEW SECTION. **Sec. 4.** This act expires December 31, 2011.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 8, 2008.
Passed by the Senate March 5, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 296

[House Bill 2678]

BUSINESS AND OCCUPATION TAX—TIMBER INDUSTRY RATE—ELIGIBLE PRODUCTS

AN ACT Relating to restoring the preferential timber industry business and occupation tax rate to the manufacture of environmentally responsible surface material products from recycled paper; reenacting and amending RCW 82.04.260; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.04.260 and 2007 c 54 s 6 and 2007 c 48 s 2 are each reenacted and 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 byproducts, or sunflower seeds

into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct 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 shall be 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;

(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 byproducts 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 shall be 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) Beginning July 1, 2012, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables 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 shall be 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;

(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 shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or 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 shall be 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 shall be 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 shall be 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 shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(6) 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 shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) 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 shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be 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) 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 shall be 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 shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) 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 shall be 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. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value 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:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (11), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (11) must report as required under RCW 82.32.545.

(e) This subsection (11) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

(12)(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 shall, in the case of extractors, be equal to the value of products, including byproducts, extracted, or in the case of extractors for hire, be 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 shall, in the case of manufacturers, be equal to the value of products, including byproducts, manufactured, or in the case of processors for hire, be 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 shall be 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 shall be equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(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) <u>"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.</u>

<u>(ii)</u> "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.

(((~~(ii)~~))) (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 (12)(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.

(((~~(iii)~~))) (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; ((~~and~~))

(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.

(((~~(iv)~~))) (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; ((~~and~~)) wood windows; and biocomposite surface products.

(13) 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 shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

NEW SECTION. **Sec. 2.** Section 1 of this act applies retroactively to July 1, 2007, as well as prospectively.

Passed by the House February 14, 2008.
Passed by the Senate March 11, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 297

[Substitute House Bill 2679]

FOSTER CARE—STUDENTS—EDUCATIONAL IMPROVEMENT

AN ACT Relating to improving educational outcomes for students in foster care; amending RCW 28A.150.510; adding new sections to chapter 28A.310 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 74.13 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

***NEW SECTION. Sec. 1. A new section is added to chapter 28A.310 RCW to read as follows:**

***Subject to the availability of funds appropriated for this purpose, the Puget Sound educational service district shall designate a foster care program supervisor to coordinate programs and services for students in foster care. The foster care program supervisor shall:**

***(1) Facilitate the use of education system resources to improve educational stability and other measurable outcomes for children in children's**

administration out-of-home care and enrolled in a school district within the Puget Sound educational service district;

(2) Develop and distribute model school district policies to improve services and supports to children in children's administration out-of-home care and enrolled in a school district within the Puget Sound educational service district;

(3) Provide training to public school staff on the impact of child abuse and neglect, school preparedness, and the child welfare system upon children who live in children's administration out-of-home care, the likely need for students in children's administration out-of-home care to have a strong relationship with one or more adults at school and academic and behavioral remediation, and the need to determine eligibility of students in children's administration out-of-home care for the many programs for which they qualify that are provided in schools;

(4) Provide technical assistance to schools concerning interagency agreements and children's administration policies relative to the education of children who live in children's administration out-of-home care;

(5) Coordinate with the McKinney-Vento education of homeless children and youth program supervisor within the office of the superintendent of public instruction on issues that relate to the definition of children's administration out-of-home care and homelessness;

(6) Coordinate with the office of the superintendent of public instruction the legal interpretations of the family education rights and privacy act and the health insurance portability and accountability act relative to data exchange;

(7) Provide technical assistance to school districts within the Puget Sound educational service district to facilitate local data exchange;

(8) Coordinate with regions 4 and 5 children's administration education leads to facilitate completion of interagency agreements for top priority school districts within the Puget Sound educational service district; and

(9) Establish a model information and data-sharing agreement between school districts and the children's administration and facilitate completion of information and data-sharing agreements.

***Sec. 1 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall provide an annual aggregate report to the legislature on the educational experiences and progress of students in children's administration out-of-home care. This data should be disaggregated in the smallest units allowable by law that do not identify an individual student, in order to learn which school districts are experiencing the greatest success and challenges in achieving quality educational outcomes with students in children's administration out-of-home care.

****NEW SECTION. Sec. 3. A new section is added to chapter 28A.310 RCW to read as follows:***

(1) Subject to the availability of funds appropriated for this purpose, the Puget Sound educational service district shall create a grant program for local school districts to improve stability and educational outcomes for students in foster care. Grants shall be awarded to school districts with the highest

incidence of child protective services removals and foster care placements under chapter 13.34 RCW.

(2) School districts receiving grants under this section shall agree to the following:

(a) The grant shall not supplant funding already in place for all students.

(b) The grant shall be used to supplement and enhance educational stability and educational outcomes for students in foster care.

(3) Grant activities may include but are not limited to the following:

(a) Dedicated staff time for:

(i) Additional counselor support for students in foster care and foster parent support;

(ii) Facilitation of education planning meetings with children's administration caseworkers, students, foster and relative caregivers, other community providers, and birth parents when appropriate;

(iii) Coordination with programs for which students in foster care may be eligible including: Title I, Upward Bound, free and reduced meals, etc.;

(iv) Tutoring;

(v) Temporary arrangements for transportation to enhance educational stability;

(vi) Coordination with the McKinney-Vento education of homeless children and youth program activities within the office of the superintendent of public instruction and local school district Title X liaisons;

(vii) Activities promoting engagement of foster parents in school programming activities;

(viii) Outreach to birth parents, when appropriate;

(ix) Assurance of timely and accurate record and data transfer when a student in foster care moves to a different school;

(x) Support for school-based foster parent recruitment; and

(xi) Additional school staff training concerning the characteristics and needs of students in foster care including protecting the right to privacy for students in foster care;

(b) Fees normally covered by parents for extracurricular activity participation, school pictures, yearbooks, ASB cards, school fines, etc.

(4) The Puget Sound educational service district shall annually submit a report to the legislature on grant program outcomes under this section.

***Sec. 3 was vetoed. See message at end of chapter.**

**<u>NEW SECTION.</u> Sec. 4. A new section is added to chapter 74.13 RCW to read as follows:*

(1) Subject to availability of funds appropriated specifically for this purpose, the department of social and health services, within the children's administration, shall fund two school district-based foster care recruitment pilots in one or more of the school districts with the highest number of child protective services removals and out-of-home placements under chapter 13.34 RCW. Pilots must coordinate with existing foster care recruitment contracts and the family-to-family model. Funds can be used to expand existing contracts or fund children's administration staff.

(2) The department of social and health services shall annually report to the legislature on the increase or decrease of foster homes within the pilot areas.

***Sec. 4 was vetoed. See message at end of chapter.**

Sec. 5. RCW 28A.150.510 and 2000 c 88 s 1 are each amended to read as follows:

In order to effectively serve students who are ((~~under the jurisdiction of the juvenile justice system as~~)) dependent pursuant to chapter 13.34 RCW, education records shall be ((~~released upon~~)) transmitted to the department of social and health services within two school days after receiving the request ((~~to~~)) from the department ((~~of social and health services~~)) provided that the department ((~~of social and health services~~)) certifies that it will not disclose to any other party the education records without prior written consent of the parent or student unless authorized to disclose the records under state law. The department of social and health services is authorized to disclose education records it obtains pursuant to this section to a foster parent, guardian, or other entity authorized by the department ((~~of social and health services~~)) to provide residential care to the student.

****NEW SECTION. Sec. 6. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.***

***Sec. 6 was vetoed. See message at end of chapter.**

Passed by the House March 10, 2008.

Passed by the Senate March 7, 2008.

Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 1, 3, 4 and 6, Substitute House Bill 2679 entitled:

"AN ACT Relating to improving educational outcomes for students in foster care."

This bill relates to projects to improve educational outcomes for students in foster care.

Section 1 creates a foster care program supervisor at the Puget Sound Educational Service District.

Section 3 directs the Puget Sound Educational Service District to create a grant program for school districts to improve stability and educational outcomes for students in foster care.

Section 4 directs the Children's Administration to fund two school district-based foster care recruitment pilots.

While it is important to provide services to students in foster care, these services should be informed by effective practice and formulated in a coordinated manner. In 2007, the Legislature created the Building Bridges grant program (HB 1573) which funds partnerships of schools, families, and communities to build a comprehensive dropout prevention, intervention and retrieval system. These grants will serve at-risk middle and high school students; targeted student populations include youth in foster care. The Children's Administration, in the Department of Social and Health Services, currently has educational advocacy coordinators. In addition, the supplemental budget enhances funding for the Children's Administration to provide Child Health Education and Tracking (CHET) screenings for all children who are in out-of-home care for 30 days or longer. Before new pilot programs are initiated, we need to evaluate the effectiveness of current programs and consider the best approach to coordinating services.

Section 6 of Substitute House Bill 2679 makes the act null and void if specific funding for this act is not provided in the omnibus appropriations act. The funding in the budget was specifically for Sections 1, 3, and 4. To retain the policies in Sections 2 and 5, this null and void section must be vetoed.

For these reasons, I am vetoing Sections 1, 3, 4, and 6 of Substitute House Bill 2679.

With the exception of Sections 1, 3, 4, and 6, Substitute House Bill 2679 is approved."

CHAPTER 298

[Second Substitute House Bill 2722]

ACHIEVEMENT GAP—AFRICAN-AMERICAN STUDENTS

AN ACT Relating to addressing the achievement gap for African-American students; adding a new section to chapter 28A.300 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that of all the challenges confronting the African-American community, perhaps none is more critical to the future than the education of African-American children. The data regarding inequities, disproportionality, and gaps in achievement is alarming no matter which indicators are used:

(a) The gap in reading test scores between African-American and white students on the tenth grade Washington assessment of student learning is twenty percentage points, with only two-thirds of African-American students able to meet the upcoming graduation standard in reading on the first attempt compared to eighty-five percent of white students. African-American students are lagging behind other student groups in reading improvement.

(b) African-American students continue to score lowest among student groups in high school mathematics, with only twenty-three percent able to meet state standard on the first attempt, a thirty-three percentage point lag behind white students who have a fifty-six percent met-standard rate.

(c) One-fourth of African-American students who enter ninth grade will have dropped out of school by the time their peers graduate in twelfth grade. This measure does not account for the children who, facing significant educational challenges and barriers, have already grown disparaged before the end of middle or junior high school.

(2) The legislature further finds that although there are multiple initiatives broadly intended to improve student achievement, including a small number of initiatives to address the achievement gap for disadvantaged students generally, there are only a select few efforts targeted to the challenges of African-American students or designed specifically to engage parents and leaders in the African-American community. The efficacy of general supplemental programs in helping African-American students is unknown. A thoughtful, comprehensive, and inclusive strategy for African-American students has not been created.

(3) Therefore, the legislature intends to commission and then implement a clear, concise, and intentional plan of action, with specific strategies and performance benchmarks, to ensure that African-American students meet or exceed all academic standards and are prepared for a quality life and responsible citizenship in the twenty-first century.

NEW SECTION. **Sec. 2.** (1) The center for the improvement of student learning in the office of the superintendent of public instruction shall convene an advisory committee to craft a strategic plan to address the achievement gap for African-American students.

(a) The advisory committee shall be comprised of fifteen members including educators, parents, representatives of community-based organizations, a representative from the Washington state commission on African-American affairs, and a representative from the office of the education ombudsman. Five members shall be appointed by the speaker of the house of representatives; five members shall be appointed by the president of the senate; and the remaining members shall be appointed by the superintendent of public instruction.

(b) Members of the advisory committee shall serve without compensation, but are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(2) The advisory committee shall conduct a detailed analysis of the achievement gap for African-American students; examine the extent to which current initiatives address the needs of African-American students; craft a strategic plan with school and community-based strategies to improve educational outcomes for African-American students; and develop performance improvement measures and benchmarks to monitor progress. The committee shall:

(a) Examine detailed data on achievement indicators based on grade level, school, gender, migrant status, and income status for African-American students to identify any trends or variances. The Washington state institute for public policy shall assist the committee in providing data analysis under this subsection (2)(a);

(b) Examine current federal, state, school, and community-based initiatives intended to improve student achievement and identify best practices and promising programs specifically for African-American students, including initiatives in other states as necessary;

(c) Develop a comprehensive plan complete with a specific set of strategies, programs, and interventions to improve the educational attainment of African-American students, along with the funding necessary for implementation. The plan would include, but not be limited to:

(i) Outreach and involvement of community-based organizations, especially organizations focused on family engagement and empowerment;

(ii) Implementation of proven strategies from other states and local jurisdictions with an emphasis on meeting or exceeding academic standards in mathematics and sciences;

(iii) Strategies to encourage the engagement and commitment of leaders in the affected communities; and

(iv) Implementation of suggestions from the black education strategy roundtable regarding family engagement and empowerment activities and capacity and community-based supplemental education; and

(d) Develop educational performance measures and improvement benchmarks to be monitored over time to gauge the progress and success of the strategic plan.

(3) The center for the improvement of student learning and the advisory committee shall make a final report to the superintendent of public instruction,

the state board of education, the governor, the P-20 council, and the education committees of the legislature by December 30, 2008.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

Beginning in January 2010, the center for the improvement of student learning shall report annually to the superintendent of public instruction, the state board of education, the governor, the P-20 council, and the education committees of the legislature on the implementation status of strategies to address the achievement gap for Africa-American students and on the progress in improvement of education performance measures for African-American students.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 10, 2008.
Passed by the Senate March 6, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 299

[Engrossed Second Substitute House Bill 2844]

URBAN FORESTRY PARTNERSHIPS—POLLUTION PREVENTION

AN ACT Relating to preventing air and water pollution through urban forestry partnerships; amending RCW 76.15.020, 35.92.390, 35A.80.040, 80.28.300, 76.15.010, 89.08.520, 79.105.150, and 80.28.010; reenacting and amending RCW 43.155.070, 70.146.070, and 79A.15.040; adding new sections to chapter 76.15 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 54.16 RCW; adding a new section to chapter 43.155 RCW; adding a new section to chapter 70.146 RCW; adding a new section to chapter 89.08 RCW; adding a new section to chapter 79.105 RCW; adding a new section to chapter 79A.15 RCW; adding a new chapter to Title 35 RCW; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

***NEW SECTION.** Sec. 1. (1)(a) The legislature finds that pollution from storm water runoff is a leading source of pollution in Puget Sound and in important water bodies in eastern Washington such as the Columbia river. The decisions and actions of those living in adjacent communities impact the health of these water bodies. The loss of native and mature nonnative, nonnaturalized trees in urban areas throughout the region has contributed significantly to storm water and flooding problems in the region.*

(b) The legislature further finds that the preservation and enhancement of city trees and urban and community forests are one of the most cost-effective ways to protect and improve water quality, air quality, human well-being, and our quality of life.

(c) The legislature further finds that appropriate selection, siting, and installation of trees can reduce heating and cooling energy costs and related greenhouse gas emissions. Retaining natural soils and vegetation, managing urban trees, planting additional trees, and restoring the functionality of forests on public lands can reduce the amount of pollutants in our communities, reduce utility infrastructure damage, reduce requirements for storm water

retention and treatment facilities, and reduce flooding caused by major storm events that can cost the state economy millions of dollars a day. Reforesting urban stream channels can reduce or eliminate regulatory requirements such as total maximum daily load requirements.

(d) The legislature further finds that there are innovative urban forest management programs and partnerships led by many cities across the state. However, there is no statewide inventory or assessment of our community and urban forests. Few cities have clear goals and standards for their urban forests. About twelve percent of Washington's cities have urban forest management plans and less than half of Washington's communities have tree ordinances. Many communities report the need for better enforcement.

(2) It is the intent of the legislature to:

(a) Recognize and support city, town, and county efforts to conserve, protect, improve, and expand Washington's urban forest in order to reduce storm water pollution in Puget Sound, flooding, energy consumption and greenhouse gas emissions, air pollution, and storm impacts to utility infrastructure.

(b) Assist cities, towns, and counties by developing a statewide community and urban forest inventory, assessment, model plans, and model ordinances, and by providing technical assistance, incentives, and resources to help cities, towns, and counties become evergreen communities by utilizing these tools, maintenance programs, new partnerships, and community involvement.

(c) Develop the statewide community and urban forest inventory in a way that is compatible with emerging reporting protocols and that could facilitate future access to carbon markets for cities.

***Sec. 1 was vetoed. See message at end of chapter.**

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

(1) "Community and urban forest assessment" means an analysis of the community and urban forest inventory to: Establish the scope and scale of forest-related benefits and services; determine the economic valuation of such benefits, highlight trends, and issues of concern; identify high priority areas to be addressed; outline strategies for addressing the critical issues and urban landscapes; and identify opportunities for retaining trees, expanding forest canopy, and planting additional trees to sustain Washington's urban and community forests.

(2) "Community and urban forest inventory" means a management tool designed to gauge the condition, management status, health, and diversity of a community and urban forest. An inventory may evaluate individual trees or groups of trees or canopy cover within community and urban forests, and will be periodically updated by the department of natural resources.

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

(4) "Evergreen community ordinances" means ordinances adopted by the legislative body of a city, town, or county that relate to urban forests and are consistent with this chapter.

(5) "Evergreen community" means a city, town, or county designated as such under section 7 of this act.

(6) "Management plan" means an evergreen community urban forest management plan developed pursuant to this chapter.

(7) "Public facilities" has the same meaning as defined in RCW 36.70A.030.

(8) "Public forest" means urban forests owned by the state, city, town, county, or other public entity within or adjacent to the urban growth areas.

(9) "Reforestation" means establishing and maintaining trees and urban forest canopy in plantable spaces such as street rights-of-way, transportation corridors, interchanges and highways, riparian areas, unstable slopes, shorelines, public lands, and property of willing private land owners.

(10) "Tree canopy" means the layer of leaves, branches, and stems of trees that cover the ground when viewed from above and that can be measured as a percentage of a land area shaded by trees.

(11) "Urban forest" has the same definition as provided for the term "community and urban forest" in RCW 76.15.010.

Sec. 3. RCW 76.15.020 and 1991 c 179 s 4 are each amended to read as follows:

(1) The department may establish and maintain a program in community and urban forestry to accomplish the purpose stated in RCW 76.15.007. The department may assist municipalities and counties in establishing and maintaining community and urban forestry programs and encourage persons to engage in appropriate and improved tree management and care.

(2) The department may advise, encourage, and assist municipalities, counties, and other public and private entities in the development and coordination of policies, programs, and activities for the promotion of community and urban forestry.

(3) The department may appoint a committee or council, in addition to the technical advisory committee created in section 5 of this act to advise the department in establishing and carrying out a program in community and urban forestry.

(4) The department may assist municipal and county tree maintenance programs by making surplus equipment available on loan where feasible for community and urban forestry programs and cooperative projects.

NEW SECTION. **Sec. 4.** A new section is added to chapter 76.15 RCW to read as follows:

(1)(a) The department may, in collaboration with educational institutions, municipalities, corporations, the technical advisory committee created in section 5 of this act, state and national service organizations, and environmental organizations, conduct a prioritized statewide inventory of community and urban forests.

(b) For purposes of efficiency, existing data and current inventory technologies must be utilized in the development of the inventory. Statewide data must be maintained and periodically updated by the department and made available to every municipality in the state.

(c) The criteria established for the statewide community and urban forest inventory must support the planning needs of local governments.

(d) The criteria for the statewide community and urban forest inventory may include but not be limited to: Tree size, species, location, site appropriateness,

condition and health, contribution to canopy cover and volume, available planting spaces, and ecosystem, economic, social, and monetary value.

(e) In developing the statewide community and urban forest inventory, the department shall strive to enable Washington cities' urban forest managers to access carbon markets by working to ensure the inventory developed under this section is compatible with existing and developing urban forest reporting protocols designed to facilitate access to those carbon markets.

(2) The department may, in collaboration with a statewide organization representing urban and community forestry programs, and with the evergreen communities partnership task force established in section 17 of this act, conduct a community and urban forest assessment and develop recommendations to the appropriate committees of the legislature to improve community and urban forestry in Washington.

(3) The inventory and assessment in this section must be capable of supporting the adoption and implementation of evergreen community management plans and ordinances described in section 10 of this act.

(4) The department may, in collaboration with municipalities, the technical advisory committee created in section 5 of this act, and a statewide organization representing urban and community forestry programs, develop an implementation plan for the inventory and assessment of the community and urban forests in Washington.

(5)(a) The criteria and implementation plan for the statewide community and urban forest inventory and assessment required under this section must be completed by December 1, 2008. Upon the completion of the criteria and implementation plan's development, the department shall report the final product to the appropriate committees of the legislature.

(b) An initial inventory and assessment, consisting of the community and urban forests of the willing municipalities located in one county located east of the crest of the Cascade mountains and the willing municipalities located in one county located west of the crest of the Cascade mountains must be completed by June 1, 2010.

(6) The requirements of this section are subject to the availability of amounts appropriated for the specific purposes of this section.

NEW SECTION. **Sec. 5.** A new section is added to chapter 76.15 RCW to read as follows:

(1) The commissioner of public lands shall appoint a technical advisory committee to provide advice to the department during the development of the criteria and implementation plan for the statewide community and urban forest inventory and assessment required under section 4 of this act.

(2) The technical advisory committee must include, but not be limited to, representatives from the following groups: Arborists; municipal foresters; educators; consultants; researchers; public works and utilities professionals; information technology specialists; and other affiliated professionals.

(3) The technical advisory committee members shall serve without compensation. Advisory committee members who are not state employees may receive reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060. Costs associated with the technical advisory committee may be paid from the general fund appropriation made available to the department for community and urban forestry.

(4) The technical advisory committee created in this section must be disbanded by the commissioner upon the completion of the criteria and implementation plan for the statewide community and urban forest inventory and assessment required under section 4 of this act.

NEW SECTION. **Sec. 6.** The department shall, in the implementation of this chapter, coordinate with the department of natural resources. Additionally, in the development of the model evergreen community urban forest management plans and ordinances required by section 10 of this act, the department shall utilize the technical expertise of the department of natural resources regarding arboriculture, tree selection, and maintenance.

NEW SECTION. **Sec. 7.** (1) The department, with the advice of the evergreen communities partnership task force created in section 17 of this act, shall develop the criteria for an evergreen community recognition program whereby the state can recognize cities, towns, and counties, to be designated as an evergreen community, who are developing excellent urban forest management programs that include community and urban forestry inventories, assessments, plans, ordinances, maintenance programs, partnerships, and community involvement.

(2)(a) Designation as an evergreen community must include no fewer than two graduated steps.

(b) The first graduated step of designation as an evergreen community includes satisfaction of the following requirements:

(i) The development and implementation of a tree board or tree department;

(ii) The development of a tree care ordinance;

(iii) The implementation of a community forestry program with an annual budget of at least two dollars for every city resident;

(iv) Official recognition of arbor day; and

(v) The completion of an updated community and urban forest inventory for the city, town, or county or the formal adoption of an inventory developed for the city, town, or county by the department of natural resources pursuant to section 4 of this act.

(c) The second graduated step of designation as an evergreen community includes the adoption of evergreen community management plans and ordinances that exceed the minimum standards in the model evergreen community management plans and ordinances adopted by the department under section 10 of this act.

(d) The department may require additional graduated steps and establish the minimum requirements for each recognized step.

(3) The department shall develop gateway signage and logos for an evergreen community.

(4) The department shall, unless the duty is assumed by the governor, recognize, certify, and designate cities, towns, and counties satisfying the criteria developed under this section as an evergreen community.

(5) Applications for evergreen community status must be submitted to and evaluated by the department of natural resources.

NEW SECTION. **Sec. 8.** A new section is added to chapter 76.15 RCW to read as follows:

The department shall manage the application and evaluation of candidates for evergreen community designation under section 7 of this act, and forward its recommendations to the department of community, trade, and economic development.

NEW SECTION. **Sec. 9.** (1) The department shall, subject to the availability of amounts appropriated for this specific purpose, coordinate with the department of natural resources in the development and implementation of a needs-based evergreen community grant and competitive awards program to provide financial assistance to cities, towns, and counties for the development, adoption, or implementation of evergreen community management plans or ordinances developed under section 14 of this act.

(2) The grant program authorized in this section shall address both the goals of rewarding innovation by a successful evergreen community and of providing resources and assistance to the applicants with the greatest financial need.

(3) The department may only provide grants to cities, towns, or counties under this chapter that:

(a) Are recognized as an evergreen community consistent with section 7 of this act, or are applying for funds that would aid them in their pursuit of evergreen community recognition; and

(b) Have developed, or are developing urban forest management partnerships with local not-for-profit organizations.

NEW SECTION. **Sec. 10.** (1) To the extent that funds are appropriated for this specific purpose, the department shall develop model evergreen community management plans and ordinances pursuant to sections 12 and 13 of this act with measurable goals and timelines to guide plan and ordinance adoption or development consistent with section 14 of this act.

(2) Model plans and ordinances developed under this section must:

(a) Recognize ecoregional differences in the state;

(b) Provide flexibility for the diversity of urban character and relative differences in density and zoning found in Washington's cities, towns, and counties;

(c) Provide an urban forest landowner inventorying his or her own property with the ability to access existing inventories, technology, and other technical assistance available through the department of natural resources;

(d) Recognize and provide for vegetation management practices and programs that prevent vegetation from interfering with or damaging utilities, public facilities, and solar panels or buildings specifically designed to optimize passive solar energy; and

(e) Provide for vegetation management practices and programs that reflect and are consistent with the priorities and goals of the growth management act, chapter 36.70A RCW.

(3) All model plans and ordinances developed by the department must be developed in conjunction with the evergreen communities partnership task force created in section 17 of this act.

(4) After the development of model evergreen community plans and ordinances under this section, the department shall, in conjunction with the department of natural resources, distribute and provide outreach regarding the model plans and ordinances and associated best management practices to cities,

towns, and counties to aid the cities, towns, and counties in obtaining evergreen community recognition under section 7 of this act.

(5) By December 1, 2010, the department shall, at a minimum, develop the model evergreen community plans and ordinances required under this section for areas of the state where the department of natural resources has completed community and urban forest inventories pursuant to section 4 of this act.

NEW SECTION. **Sec. 11.** (1) The department shall deliver a report to the appropriate committees of the legislature following the development of the model evergreen community management plans and ordinances under section 10 of this act recommending any next steps and additional incentives to increase voluntary participation by cities, towns, and counties in the evergreen community recognition program established in section 7 of this act.

(2) By the fifteenth day of each consecutive December leading up to the adoption of the model evergreen community plans and ordinances, the department shall deliver a report to the appropriate committees of the legislature outlining progress made towards the development and implementation of the model plans and ordinances.

NEW SECTION. **Sec. 12.** In the development of model evergreen community management plans under section 10 of this act, the department shall consider including, but not be limited to, the following elements:

(1) Inventory and assessment of the jurisdiction's urban and community forests utilized as a dynamic management tool to set goals, implement programs, and monitor outcomes that may be adjusted over time;

(2) Canopy cover goals;

(3) Reforestation and tree canopy expansion goals within the city's, town's, and county's boundaries;

(4) Restoration of public forests;

(5) Achieving forest stand and diversity goals;

(6) Maximizing vegetated storm water management with trees and other vegetation that reduces runoff, increases soil infiltration, and reduces storm water pollution;

(7) Environmental health goals specific to air quality, habitat for wildlife, and energy conservation;

(8) Vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities;

(9) Prioritizing planting sites;

(10) Standards for tree selection, siting, planting, and pruning;

(11) Scheduling maintenance and stewardship for new and established trees;

(12) Staff and volunteer training requirements emphasizing appropriate expertise and professionalism;

(13) Guidelines for protecting existing trees from construction-related damage and damage related to preserving territorial views;

(14) Integrating disease and pest management;

(15) Wood waste utilization;

(16) Community outreach, participation, education programs, and partnerships with nongovernment organizations;

(17) Time frames for achieving plan goals, objectives, and tasks;

(18) Monitoring and measuring progress toward those benchmarks and goals;

(19) Consistency with the urban wildland interface codes developed by the state building code council;

(20) Emphasizing landscape and revegetation plans in residential and commercial development areas where tree retention objectives are challenging to achieve; and

(21) Maximizing building heating and cooling energy efficiency through appropriate siting of trees for summer shading, passive solar heating in winter, and for wind breaks.

NEW SECTION. **Sec. 13.** The department shall, in the development of model evergreen community ordinances under section 10 of this act, consider including, but not be limited to, the following policy elements:

(1) Tree canopy cover, density, and spacing;

(2) Tree conservation and retention;

(3) Vegetated storm water runoff management using native trees and appropriate nonnative, nonnaturalized vegetation;

(4) Clearing, grading, protection of soils, reductions in soil compaction, and use of appropriate soils with low runoff potential and high infiltration rates;

(5) Appropriate tree siting and maintenance for vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities;

(6) Native species and nonnative, nonnaturalized species diversity selection to reduce disease and pests in urban forests;

(7) Tree maintenance;

(8) Street tree installation and maintenance;

(9) Tree and vegetation buffers for riparian areas, critical areas, transportation and utility corridors, and commercial and residential areas;

(10) Tree assessments for new construction permitting;

(11) Recommended forest conditions for different land use types;

(12) Variances for hardship and safety;

(13) Variances to avoid conflicts with renewable solar energy infrastructure, passive solar building design, and locally grown produce; and

(14) Permits and appeals.

NEW SECTION. **Sec. 14.** (1) A city, town, or county may adopt evergreen community management plans and ordinances, including enforcement mechanisms and civil penalties for violations of its evergreen community ordinances.

(2) Evergreen community ordinances adopted under this section may not prohibit or conflict with vegetation management practices and programs undertaken to prevent vegetation from interfering with or damaging utilities and public facilities.

(3) Management plans developed by cities, towns, or counties must be based on urban forest inventories for the city, town, or county covered by the management plan. The city, town, or county developing the management plan may produce independent inventories themselves or rely solely on inventories developed, commissioned, or approved by the department of natural resources under chapter 76.15 RCW.

(4) Cities, towns, or counties may establish a local evergreen community advisory board or utilize existing citizen boards focused on municipal tree issues to achieve appropriate expert and stakeholder participation in the adoption and development of inventories, assessments, ordinances, and plans consistent with this chapter.

(5) A city, town, or county shall invite the expert advice of utilities serving within its jurisdiction for the purpose of developing and adopting appropriate plans for vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities.

NEW SECTION. **Sec. 15.** A new section is added to chapter 36.01 RCW to read as follows:

(1) Any county may adopt evergreen community ordinances, as that term is defined in section 2 of this act, which the county must apply to new building or land development in the unincorporated portions of the county's urban growth areas, as that term is defined in RCW 36.70A.030, and may apply to other areas of the county as deemed appropriate by the county.

(2) As an alternative to subsection (1) of this section, a city or town may request that the county in which it is located apply to any new building or land development permit in the unincorporated portions of the urban growth areas, as defined in RCW 36.70A.030, the evergreen community ordinances standards adopted under section 14 of this act by the city or town in the county located closest to the proposed building or development.

NEW SECTION. **Sec. 16.** (1) A city, town, or county seeking evergreen community recognition under section 7 of this act shall submit its management plans and evergreen community ordinances to the department for review and comment at least sixty days prior to its planned implementation date.

(2) The department shall, together with the department of natural resources, review any evergreen community ordinances or management plans submitted. When reviewing ordinances or plans under this section, the department shall focus its review on the plan's consistency with this chapter and the model evergreen community management plans and ordinances adopted under section 10 of this act. When the following entities submit evergreen community ordinances and management plans for review, they must be considered by the department, together with the department of natural resources, the department of fish and wildlife, and the Puget Sound partnership: A county adjacent to Puget Sound or any city located within any of those counties. The reviewing departments may provide written comments on both plans and ordinances.

(3) Together with the department of natural resources, the department may offer technical assistance in the development of evergreen community ordinances and management plans.

NEW SECTION. **Sec. 17.** (1) The director of the department shall assemble and convene the evergreen communities partnership task force of no more than twenty-five individuals to aid and advise the department in the administration of this chapter.

(2) At the discretion of the department, the task force may be disbanded once the urban and community forests assessments conducted by the department of natural resources under section 4 of this act and the model evergreen

community management plans and ordinances developed under section 10 of this act are completed.

(3) Representatives of the department of natural resources and the department of ecology shall participate in the task force.

(4) The department shall invite individuals representing the following entities to serve on the task force:

(a) A statewide council representing urban and community forestry programs authorized under RCW 76.15.020;

(b) A conservation organization with expertise in Puget Sound storm water management;

(c) At least two cities, one from a city east and one from a city west of the crest of the Cascade mountains;

(d) At least two counties, one from a county east and one from a county west of the crest of the Cascade mountains;

(e) Two land development professionals or representative associations representing development professionals affected by tree retention ordinances and storm water management policies;

(f) A national conservation organization with a network of chapter volunteers working to conserve habitat for birds and wildlife;

(g) A land trust conservation organization facilitating urban forest management partnerships;

(h) A national conservation organization with expertise in backyard, schoolyard, and community wildlife habitat development;

(i) A public works professional;

(j) A private utility;

(k) A national forest land trust exclusively dedicated to sustaining America's vast and vital private forests and safeguarding their many public benefits;

(l) Professionals with expertise in local land use planning, housing, or infrastructure; and

(m) The timber industry.

(5) The department is encouraged to recruit task force members who are able to represent two or more of the stakeholder groups listed in subsection (4) of this section.

(6) In assembling the task force, the department shall strive to achieve representation from as many of the state's major ecoregions as possible.

(7) Each member of the task force shall serve without compensation. Task force members that are not state employees may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 18.** Nothing in this chapter may be construed to:

(1) Conflict or supersede with any requirements, duties, or objectives placed on local governments under chapter 36.70A RCW with specific emphasis on allowing cities and unincorporated urban growth areas to achieve their desired residential densities in a manner and character consistent with RCW 36.70A.110; or

(2) Apply to lands designated under chapters 76.09, 79.70, 79.71, 84.33, and 84.34 RCW.

Sec. 19. RCW 35.92.390 and 1993 c 204 s 2 are each amended to read as follows:

(1) Municipal utilities under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Municipal utilities under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of request for a voluntary donation.

(b) Voluntary donations collected by municipal utilities under this section may be used by the municipal utility to:

(i) Support the development and implementation of evergreen community ordinances, as that term is defined in section 2 of this act, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the model evergreen community management plans and ordinances developed under section 10 of this act.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Sec. 20. RCW 35A.80.040 and 1993 c 204 s 3 are each amended to read as follows:

(1) Code cities providing utility services under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Code cities providing utility services under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(b) Voluntary donations collected by code cities under this section may be used by the code city to:

(i) Support the development and implementation of evergreen community ordinances, as that term is defined in section 2 of this act, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the model evergreen community management plans and ordinances developed under section 10 of this act.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Sec. 21. RCW 80.28.300 and 1993 c 204 s 4 are each amended to read as follows:

(1) Gas companies and electrical companies under this chapter ((~~may~~)) are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Gas companies and electrical companies under this chapter may request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(b) Voluntary donations collected by gas companies and electrical companies under this section may be used by the gas companies and electrical companies to:

(i) Support the development and implementation of evergreen community ordinances, as that term is defined in section 2 of this act, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the model evergreen community management plans and ordinances developed under section 10 of this act.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

NEW SECTION. **Sec. 22.** A new section is added to chapter 54.16 RCW to read as follows:

(1) Public utility districts may request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(2) Voluntary donations collected by public utility districts under this section may be used by the public utility district to:

(a) Support the development and implementation of evergreen community ordinances, as that term is defined in section 2 of this act, for cities, towns, or counties within their service areas; or

(b) Complete projects consistent with the model evergreen community management plans and ordinances developed under section 10 of this act.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Sec. 23. RCW 76.15.010 and 2000 c 11 s 15 are each amended to read as follows:

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

(1) "Community and urban forest" is that land in and around human settlements ranging from small communities to metropolitan areas, occupied or potentially occupied by trees and associated vegetation. Community and urban forest land may be planted or unplanted, used or unused, and includes public and private lands, lands along transportation and utility corridors, and forested watershed lands within populated areas.

(2) "Community and urban forest assessment" has the same meaning as defined in section 2 of this act.

(3) "Community and urban forest inventory" has the same meaning as defined in section 2 of this act.

(4) "Community and urban forestry" means the planning, establishment, protection, care, and management of trees and associated plants individually, in small groups, or under forest conditions within municipalities and counties.

((~~(3)~~)) (5) "Department" means the department of natural resources.

((~~(4)~~)) (6) "Municipality" means a city, town, port district, public school district, community college district, irrigation district, weed control district, park district, or other political subdivision of the state.

((~~(5)~~)) (7) "Person" means an individual, partnership, private or public municipal corporation, Indian tribe, state entity, county or local governmental entity, or association of individuals of whatever nature.

NEW SECTION. **Sec. 24.** (1) In an effort to better understand the needs of cities, towns, and counties interested in pursuing designation as an evergreen community under section 7 of this act, the legislature intends to encourage cities, towns, and counties to:

(a) Identify their interests in becoming an evergreen community; and

(b) Identify community and urban forests within their applicable urban growth areas that are appropriately situated for the city, town, or county to assume ownership from willing sellers for urban forest management purposes consistent with this act.

(2) If a city, town, or county opts to provide a list of identified properties under this section, including the estimated value of the properties and documentation on the owner's willingness to participate, the information must be provided to the department by October 31, 2008.

(3) The department must report a summary of the properties reported to it under this section, along with the itemized and summarized estimated costs involved with the purchases, to the appropriate committees of the legislature by December 15, 2008.

(4) This section expires July 31, 2009.

Sec. 25. RCW 43.155.070 and 2007 c 341 s 24 and 2007 c 231 s 2 are each reenacted and amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan guarantee.

(3) In considering awarding loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Except as otherwise conditioned by RCW 43.155.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(e) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007;

(f) The cost of the project compared to the size of the local government and amount of loan money available;

(g) The number of communities served by or funding the project;

(h) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(i) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

(j) Except as otherwise conditioned by section 30 of this act, and effective one calendar year following the development of model evergreen community management plans and ordinances under section 10 of this act, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in section 7 of this act;

(k) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

((~~(k)~~)) (l) Other criteria that the board considers advisable.

(5) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before November 1st of each year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be

limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(7) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

(9) Loans made for the purpose of capital facilities plans shall be exempted from subsection (7) of this section.

(10) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(11) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 26. RCW 70.146.070 and 2007 c 341 s 60 and 2007 c 341 s 26 are each reenacted and amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by RCW 70.146.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(g) Except as otherwise provided in section 31 of this act, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under section 10 of this act, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in section 7 of this act;

(h) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant

public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

((~~(h)~~)) (i) The recommendations of the Puget Sound partnership, created in RCW 90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 27. RCW 89.08.520 and 2007 c 341 s 28 are each amended to read as follows:

(1) In administering grant programs to improve water quality and protect habitat, the commission shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) In its grant prioritization and selection process, consider:

(i) The statement of environmental benefits;

(ii) Whether, except as conditioned by RCW 89.08.580, the applicant is a Puget Sound partner, as defined in RCW 90.71.010, and except as otherwise provided in section 32 of this act, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under section 10 of this act, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in section 7 of this act; and

(iii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310; and

(c) Not provide funding, after January 1, 2010, for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(2)(a) The commission shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program.

(b) The commission shall work with the districts to develop uniform performance measures across participating districts and, to the extent possible, the commission should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The commission shall consult with affected interest groups in implementing this section.

Sec. 28. RCW 79.105.150 and 2007 c 341 s 32 are each amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects.

(2) In providing grants for aquatic lands enhancement projects, the ((~~interagency committee for outdoor~~)) recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, ((~~and~~)) whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in section 33 of this act, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under section 10 of this act, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in section 7 of this act in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 29. RCW 79A.15.040 and 2007 c 341 s 34 and 2007 c 241 s 29 are each reenacted and amended to read as follows:

(1) Moneys appropriated for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than forty percent through June 30, 2011, at which time the amount shall become forty-five percent, for the acquisition and development of critical habitat;

(b) Not less than thirty percent for the acquisition and development of natural areas;

(c) Not less than twenty percent for the acquisition and development of urban wildlife habitat; and

(d) Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the board to fund restoration and enhancement projects on state lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on existing habitat and natural area lands.

(2)(a) In distributing these funds, the board retains discretion to meet the most pressing needs for critical habitat, natural areas, and urban wildlife habitat, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the habitat conservation account to meet the percentages described in subsection (1) of this section in any biennium, the board retains discretion to distribute any remaining funds to the other categories within the account.

(3) Only state agencies may apply for acquisition and development funds for natural areas projects under subsection (1)(b) of this section.

(4) State and local agencies may apply for acquisition and development funds for critical habitat and urban wildlife habitat projects under subsection (1)(a) and (c) of this section.

(5)(a) Any lands that have been acquired with grants under this section by the department of fish and wildlife are subject to an amount in lieu of real property taxes and an additional amount for control of noxious weeds as determined by RCW 77.12.203.

(b) Any lands that have been acquired with grants under this section by the department of natural resources are subject to payments in the amounts required under the provisions of RCW 79.70.130 and 79.71.130.

(6)((~~(a)~~)) Except as otherwise conditioned by RCW 79A.15.140 or section 34 of this act, the ((~~committee~~)) board in its evaluating process shall consider the following in determining distribution priority:

((~~(i)~~)) (a) Whether the entity applying for funding is a Puget Sound partner, as defined in RCW 90.71.010; ((~~and~~

~~(ii)~~)) (b) Effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under section 10 of this act, whether the entity receiving assistance

has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in section 7 of this act; and

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(7) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

NEW SECTION. **Sec. 30.** A new section is added to chapter 43.155 RCW to read as follows:

When administering funds under this chapter, the board shall give preference only to an evergreen community recognized under section 7 of this act in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

NEW SECTION. **Sec. 31.** A new section is added to chapter 70.146 RCW to read as follows:

When administering funds under this chapter, the department shall give preference only to an evergreen community recognized under section 7 of this act in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

NEW SECTION. **Sec. 32.** A new section is added to chapter 89.08 RCW to read as follows:

When administering funds under this chapter, the commission shall give preference only to an evergreen community recognized under section 7 of this act in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

NEW SECTION. **Sec. 33.** A new section is added to chapter 79.105 RCW to read as follows:

When administering funds under this chapter, the recreation and conservation funding board shall give preference only to an evergreen community recognized under section 7 of this act in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

NEW SECTION. **Sec. 34.** A new section is added to chapter 79A.15 RCW to read as follows:

When administering funds under this chapter, the recreation and conservation funding board shall give preference only to an evergreen community recognized under section 7 of this act in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

Sec. 35. RCW 80.28.010 and 1995 c 399 s 211 are each amended to read as follows:

(1) All charges made, demanded or received by any gas company, electrical company or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient. Reasonable charges necessary to cover the cost of administering the collection of voluntary donations for the purposes of supporting the development and implementation of evergreen community management plans and ordinances under RCW 80.28.300 shall be deemed as prudent and necessary for the operation of a utility.

(2) Every gas company, electrical company and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company or water company, affecting or pertaining to the sale or distribution of its product, shall be just and reasonable.

(4) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by paying reconnection charges, if any, and fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior twelve months to a grantee of the department of community, trade, and economic development which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance

payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(5) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(6) A payment plan implemented under this section is consistent with RCW 80.28.080.

(7) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(8) Every gas company, electrical company and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product as will be efficient and safe to its employees and the public.

(9) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter.

(10) In establishing rates or charges for water service, water companies as defined in RCW 80.04.010 may consider the achievement of water conservation goals and the discouragement of wasteful water use practices.

NEW SECTION. **Sec. 36.** Sections 1, 2, 6, 7, 9 through 14, 16 through 18, and 24 of this act constitute a new chapter in Title 35 RCW.

NEW SECTION. **Sec. 37.** This act may be known and cited as the evergreen communities act.

NEW SECTION. **Sec. 38.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the House March 11, 2008.
Passed by the Senate March 6, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 1, Engrossed Second Substitute House Bill 2844 entitled:

"AN ACT Relating to preventing air and water pollution through urban forestry partnerships."

Section 1 is an unnecessarily prescriptive and detailed intent section. For this reason, I have vetoed Section 1 of Engrossed Second Substitute House Bill 2844.

I must note that the legislative budget only partially funds this bill. The Department of Community Trade and Economic Development (CTED) received funds for developing the Evergreen Communities grant program, model ordinances and plans. The Department of Natural Resources (DNR) is partially funded to provide CTED with technical expertise, to develop an urban forest inventory implementation plan, and to conduct two pilot inventories.

The highest priorities for these limited dollars are for DNR to (1) provide technical expertise to CTED and local governments, (2) develop the urban forest inventory implementation plan — focusing on the use of existing data and current inventory technologies, and (3) then to begin the pilot projects.

Conducting the community and urban forest inventories statewide is premature until DNR develops and tests an efficient inventory process. Funding for subsequent inventories should be considered as a separate policy decision in the future.

With the exception of Section 1, Engrossed Second Substitute House Bill 2844 is approved."

CHAPTER 300

[House Bill 2887]

JUDGES—RETIREMENT—INCREASED BENEFIT MULTIPLIER

AN ACT Relating to purchasing an increased benefit multiplier for past judicial service for judges in the public employees' retirement system; and amending RCW 41.40.124, 41.40.127, 41.40.870, and 41.40.873.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.40.124 and 2007 c 123 s 1 are each amended to read as follows:

(1) Between January 1, 2007, and December 31, 2007, a member of plan 1 or plan 2 employed as a supreme court justice, court of appeals judge, or superior court judge may make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of the election in lieu of future employee and employer contributions to the judicial retirement account plan under chapter 2.14 RCW.

(2)((~~(a)~~)) A member who ((~~chooses to make~~)) made the election under subsection (1) of this section may apply, at the time of filing a written application for retirement with the department, to the department to increase the member's benefit multiplier by an additional one and one-half percent per year of service for the period in which the member served as a justice or judge prior

to the election. The member may purchase, beginning with the most recent judicial service, the higher benefit multiplier for ((~~up to seventy percent of~~)) that portion of the member's prior judicial service for which the higher benefit multiplier was not previously purchased, and that would ensure that the member has no more than a seventy-five percent of average final compensation benefit ((~~accrued by age sixty-four for members of plan 1, and age sixty-six for members of plan 2~~)). The member shall pay five percent of the salary earned for each month of service for which the higher benefit multiplier is being purchased, plus ((~~interest as determined by the director~~)) five and one-half percent interest applied from the dates that the service was earned. The purchase price shall not exceed the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier. This payment must be made prior to retirement ((~~and prior to December 31, 2007. After December 31, 2007, a member may purchase the higher benefit multiplier for any of the member's prior judicial service at the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier, as determined by the director~~)), subject to rules adopted by the department.

(((~~(b)~~))) (3) From January 1, 2009, through June 30, 2009, the following members may apply to the department to increase their benefit multiplier by an additional one and one-half percent per year of service for the period in which they served as a justice or judge:

(a) Active members of plan 1 or plan 2 who are not currently employed as a supreme court justice, court of appeals judge, or superior court judge, and who have past service as a supreme court justice, court of appeals judge, or superior court judge; and

(b) Inactive vested members of plan 1 or plan 2 who have separated, have not yet retired, and who have past service as a supreme court justice, court of appeals judge, or superior court judge.

A member eligible under this subsection may purchase the higher benefit multiplier for all or part of the member's prior judicial service beginning with the most recent judicial service. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director.

(4) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

Sec. 2. RCW 41.40.127 and 2007 c 123 s 2 are each amended to read as follows:

(1) Between January 1, 2007, and December 31, 2007, a member of plan 1 or plan 2 employed as a district court judge or municipal court judge may make a

one-time irrevocable election, filed in writing with the member's employer and the department, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit from the date of the election.

(2)((~~(a)~~)) A member who ((~~chooses to make~~)) made the election under subsection (1) of this section may apply, at the time of filing a written application for retirement with the department, to the department to increase the member's benefit multiplier by one and one-half percent per year of service for the period in which the member served as a judge prior to the election. The member may purchase, beginning with the most recent judicial service, the higher benefit multiplier for ((~~up to seventy percent of~~)) that portion of the member's prior judicial service for which the higher benefit multiplier was not previously purchased, and that would ensure that the member has no more than a seventy-five percent of average final compensation benefit ((~~accrued by age sixty-four for members of plan 1, and age sixty-six for members of plan 2~~)). The member shall pay five percent of the salary earned for each month of service for which the higher benefit multiplier is being purchased, plus ((~~interest as determined by the director~~)) five and one-half percent interest applied from the dates that the service was earned. The purchase price shall not exceed the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier. This payment must be made prior to retirement ((~~and prior to December 31, 2007. After December 31, 2007, a member may purchase the higher benefit multiplier for any of the member's prior judicial service at the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier, as determined by the director~~)), subject to rules adopted by the department.

(((~~(b)~~))) (3) From January 1, 2009, through June 30, 2009, the following members may apply to the department to increase their benefit multiplier by an additional one and one-half percent per year of service for the period in which they served as a justice or judge:

(a) Active members of plan 1 or plan 2 who are not currently employed as a district court judge or municipal court judge, and who have past service as a district court judge or municipal court judge; and

(b) Inactive vested members of plan 1 or plan 2 who have separated, have not yet retired, and who have past service as a district court judge or municipal court judge.

A member eligible under this subsection may purchase the higher benefit multiplier for all or part of the member's prior judicial service beginning with the most recent judicial service. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director.

(4) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the

acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

Sec. 3. RCW 41.40.870 and 2007 c 123 s 3 are each amended to read as follows:

(1) Between January 1, 2007, and December 31, 2007, a member of plan 3 employed as a supreme court justice, court of appeals judge, or superior court judge may make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional plan 3 defined benefit equal to six-tenths percent of average final compensation for each year of future service credit from the date of the election in lieu of future employer contributions to the judicial retirement account plan under chapter 2.14 RCW.

(2)((~~(a)~~)) A member who ((~~chooses to make~~)) made the election under subsection (1) of this section may apply, at the time of filing a written application for retirement with the department, to the department to increase the member's benefit multiplier by six-tenths percent per year of service for the period in which the member served as a justice or judge prior to the election. The member may purchase, beginning with the most recent judicial service, the higher benefit multiplier for ((~~up to seventy percent of~~)) that portion of the member's prior judicial service for which the higher benefit multiplier was not previously purchased, and that would ensure that the member has no more than a thirty-seven and one-half percent of average final compensation benefit ((~~accrued by age sixty-six~~)). The member shall pay two and one-half percent of the salary earned for each month of service for which the higher benefit multiplier is being purchased, plus ((~~interest as determined by the director~~)) five and one-half percent interest applied from the dates that the service was earned. The purchase price shall not exceed the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier. This payment must be made prior to retirement ((~~and prior to December 31, 2007. After December 31, 2007, a member may purchase the higher benefit multiplier for any of the member's prior judicial service at the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier, as determined by the director~~)), subject to rules adopted by the department.

((~~(b)~~)) (3) From January 1, 2009, through June 30, 2009, the following members may apply to the department to increase their benefit multiplier by an additional six-tenths percent per year of service for the period in which they served as a justice or judge:

(a) Active members of plan 3 who are not currently employed as a supreme court justice, court of appeals judge, or superior court judge, and who have past service as a supreme court justice, court of appeals judge, or superior court judge; and

(b) Inactive vested members of plan 3 who have separated, have not yet retired, and who have past service as a supreme court justice, court of appeals judge, or superior court judge.

A member eligible under this subsection may purchase the higher benefit multiplier for all or part of the member's prior judicial service beginning with the

most recent judicial service. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director.

(4) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(((~~(3)~~))) (5) A member who chooses to make the election under subsection (1) of this section shall contribute a minimum of seven and one-half percent of pay to the member's defined contribution account.

Sec. 4. RCW 41.40.873 and 2007 c 123 s 4 are each amended to read as follows:

(1) Between January 1, 2007, and December 31, 2007, a member of plan 3 employed as a district court judge or municipal court judge may make a one-time irrevocable election, filed in writing with the member's employer and the department, to accrue an additional plan 3 defined benefit equal to six-tenths percent of average final compensation for each year of future service credit from the date of the election.

(2)(((~~(a)~~))) A member who ((~~chooses to make~~)) made the election under subsection (1) of this section may apply, at the time of filing a written application for retirement with the department, to the department to increase the member's benefit multiplier by six-tenths percent per year of service for the period in which the member served as a judge prior to the election. The member may purchase, beginning with the most recent judicial service, the higher benefit multiplier for ((~~up to seventy percent of~~)) that portion of the member's prior judicial service for which the higher benefit multiplier was not previously purchased, and that would ensure that the member has no more than a thirty-seven and one-half percent of average final compensation benefit ((~~accrued by age sixty-six~~)). The member shall pay two and one-half percent of the salary earned for each month of service for which the higher benefit multiplier is being purchased, plus ((~~interest as determined by the director~~)) five and one-half percent interest applied from the dates that the service was earned. The purchase price shall not exceed the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier. This payment must be made prior to retirement ((~~and prior to December 31, 2007. After December 31, 2007, a member may purchase the higher benefit multiplier for any of the member's prior judicial service at the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier, as determined by the director~~)), subject to rules adopted by the department.

((~~(b)~~)) (3) From January 1, 2009, through June 30, 2009, the following members may apply to the department to increase their benefit multiplier by an additional six-tenths percent per year of service for the period in which they served as a justice or judge:

(a) Active members of plan 3 who are not currently employed as a district court judge or municipal court judge, and who have past service as a district court judge or municipal court judge; and

(b) Inactive vested members of plan 3 who have separated, have not yet retired, and who have past service as a district court judge or municipal court judge.

A member eligible under this subsection may purchase the higher benefit multiplier for all or part of the member's prior judicial service beginning with the most recent judicial service. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director.

(4) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

((~~(3)~~)) (5) A member who chooses to make the election under subsection (1) of this section shall contribute a minimum of seven and one-half percent of pay to the member's defined contribution account.

Passed by the House March 8, 2008.
Passed by the Senate March 5, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 301

[Engrossed Second Substitute House Bill 3186]

BEACH MANAGEMENT DISTRICTS

AN ACT Relating to beach management districts; amending RCW 36.61.010, 36.61.020, 36.61.025, 36.61.030, 36.61.040, 36.61.050, 36.61.060, 36.61.070, 36.61.080, 36.61.090, 36.61.100, 36.61.110, 36.61.115, 36.61.120, 36.61.140, 36.61.160, 36.61.170, 36.61.190, 36.61.200, 36.61.220, 36.61.230, 36.61.260, 36.61.270, 36.94.020, 39.34.190, 86.09.151, and 35.21.403; adding a new section to chapter 36.61 RCW; adding a new section to chapter 43.21A RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.61.010 and 1987 c 432 s 1 are each amended to read as follows:

The legislature finds that the environmental, recreational, and aesthetic values of many of the state's lakes are threatened by eutrophication and other deterioration and that existing governmental authorities are unable to adequately improve and maintain the quality of the state's lakes.

The legislature intends that an ecosystem-based beach management approach should be used to help promote the health of aquatic ecosystems and that such a management approach be undertaken in a manner that retains ecosystem values within the state. This management approach should use long-term strategies that focus on reducing nutrient inputs from human activities affecting the aquatic ecosystem, such as decreasing nutrients into storm water sewers, decreasing fertilizer application, promoting the proper disposal of pet waste, promoting the use of vegetative borders, promoting the reduction of nutrients from on-site septic systems where appropriate, and protecting riparian areas. Organic debris, including vegetation, driftwood, seaweed, kelp, and organisms, are extremely important to beach ecosystems.

It is the purpose of this chapter to establish a governmental mechanism by which property owners can embark on a program of lake or beach improvement and maintenance for their and the general public's benefit, health, and welfare. Public property, including state property, shall be considered the same as private property in this chapter, except liens for special assessments and liens for rates and charges shall not extend to public property. Lake bottom property and marine property below the line of the ordinary high water mark shall not be considered to be benefited, shall not be subject to special assessments or rates and charges, and shall not receive voting rights under this chapter.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.61 RCW to read as follows:

(1) Beach management districts may be created for the purpose of controlling and removing aquatic plants or vegetation. These districts must develop a plan for these activities, in consultation with appropriate federal, state, and local agencies. The plan must include an element addressing nutrient loading from land use activities in a subbasin that is a tributary to the area targeted for management. The plan must be consistent with the action agenda approved by the Puget Sound partnership, where applicable.

(2) Plans for the control and removal of aquatic plants or vegetation must, to the greatest extent possible, meet the following requirements:

(a) Avoid or minimize the excess removal of living and nonliving nontarget native vegetation and organisms;

(b) Avoid or minimize management activities that will result in compacting beach sand, gravel, and substrate;

(c) Minimize adverse impacts to: (i) The project site when disposing of excessive accumulations of vegetation; and (ii) other areas of the beach or deep water environment; and

(d) Retain all natural habitat features on the beach, including retaining trees, stumps, logs, and large rocks in their natural location.

(3) Seaweed removal under this section may only occur on the shore of a saltwater body that lies between the extreme low tide and the ordinary high water mark, as those terms are defined in RCW 90.58.030.

(4) The control or removal of native aquatic plants or vegetation shall be authorized in the following areas:

(a) Beaches or near shore areas located within at least one mile of a ferry terminal that are in a county with a population of one million or more residents; and

(b) Beaches or near shore areas in a city that meets the following:

(i) Is adjacent to Puget Sound;

(ii) Has at least eighty-five thousand residents;

(iii) Shares a common boundary with a neighboring county; and

(iv) Is in a county with a population of one million or more residents.

Sec. 3. RCW 36.61.020 and 2000 c 184 s 5 are each amended to read as follows:

Any county may create lake or beach management districts to finance the improvement and maintenance of lakes or beaches located within or partially within the boundaries of the county. All or a portion of a lake or beach and the adjacent land areas may be included within one or more lake or beach management districts. More than one lake or beach, or portions of lakes or beaches, and the adjacent land areas may be included in a single lake or beach management district.

Special assessments or rates and charges may be imposed on the property included within a lake or beach management district to finance lake or beach improvement and maintenance activities, including: (1) ((~~The control or removal of~~)) Controlling or removing aquatic plants and vegetation; (2) improving water quality; (3) ((~~the control of~~)) controlling water levels; (4) treating and diverting storm water ((~~diversion and treatment~~)); (5) controlling agricultural waste ((~~control~~)); (6) studying lake or marine water quality problems and solutions; (7) cleaning and maintaining ditches and streams entering the lake or marine waters or leaving the lake; ((~~and~~)) (8) monitoring air quality; and (9) the related administrative, engineering, legal, and operational costs, including the costs of creating the lake or beach management district.

Special assessments or rates and charges may be imposed annually on all the land in a lake or beach management district for the duration of the lake or beach management district without a related issuance of lake or beach management district bonds or revenue bonds. Special assessments also may be imposed in the manner of special assessments in a local improvement district with each landowner being given the choice of paying the entire special assessment in one payment, or to paying installments, with lake or beach management district bonds being issued to obtain moneys not derived by the initial full payment of the special assessments, and the installments covering all of the costs related to issuing, selling, and redeeming the lake or beach management district bonds.

Sec. 4. RCW 36.61.025 and 2000 c 184 s 4 are each amended to read as follows:

To improve the ability of counties to finance long-term lake or beach management objectives, lake or beach management districts may be created for any needed period of time.

Sec. 5. RCW 36.61.030 and 1987 c 432 s 3 are each amended to read as follows:

A lake or beach management district may be initiated upon either the adoption of a resolution of intention by a county legislative authority or the

filing of a petition signed by ten landowners or the owners of at least fifteen percent of the acreage contained within the proposed lake or beach management district, whichever is greater. A petition or resolution of intention shall set forth: (1) The nature of the lake or beach improvement or maintenance activities proposed to be financed; (2) the amount of money proposed to be raised by special assessments or rates and charges; (3) if special assessments are to be imposed, whether the special assessments will be imposed annually for the duration of the lake or beach management district, or the full special assessments will be imposed at one time, with the possibility of installments being made to finance the issuance of lake or beach management district bonds, or both methods; (4) if rates and charges are to be imposed, the annual amount of revenue proposed to be collected and whether revenue bonds payable from the rates and charges are proposed to be issued; (5) the number of years proposed for the duration of the lake or beach management district; and (6) the proposed boundaries of the lake or beach management district.

The county legislative authority may require the posting of a bond of up to five thousand dollars before the county considers the proposed creation of a lake or beach management district initiated by petition. The bond may only be used by the county to finance its costs in studying, holding hearings, making notices, preparing special assessment rolls or rolls showing the rates and charges on each parcel, and conducting elections related to the lake or beach management district if the proposed lake or beach management district is not created.

A resolution of intention shall also designate the number of the proposed lake or beach management district, and fix a date, time, and place for a public hearing on the formation of the proposed lake or beach management district. The date for the public hearing shall be at least thirty days and no more than ninety days after the adoption of the resolution of intention unless an emergency exists.

Petitions shall be filed with the county legislative authority. The county legislative authority shall determine the sufficiency of the signatures, which shall be conclusive upon all persons. No person may withdraw his or her name from a petition after it is filed. If the county legislative authority determines a petition to be sufficient and the proposed lake or beach management district appears to be in the public interest and the financing of the lake or beach improvement or maintenance activities is feasible, it shall adopt a resolution of intention, setting forth all of the details required to be included when a resolution of intention is initiated by the county legislative authority.

Sec. 6. RCW 36.61.040 and 1994 c 264 s 9 are each amended to read as follows:

Notice of the public hearing shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed lake or beach management district, the date of the first publication to be at least fifteen days prior to the date fixed for the public hearing by the resolution of intention. Notice of the public hearing shall also be given to the owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed lake or beach management district by mailing the notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county assessor at the address shown thereon. Notice of the public hearing shall also be mailed to the departments of fish and

wildlife, natural resources, and ecology at least fifteen days before the date fixed for the public hearing.

Notices of the public hearing shall: (1) Refer to the resolution of intention; (2) designate the proposed lake or beach management district by number; (3) set forth a proposed plan describing: (a) The nature of the proposed lake or beach improvement or maintenance activities; (b) the amount of special assessments or rates and charges proposed to be raised by the lake or beach management district; (c) if special assessments are proposed to be imposed, whether the special assessments will be imposed annually for the duration of the lake or beach management district, or the full special assessments will be payable at one time, with the possibility of periodic installments being paid and lake or beach management bonds being issued, or both; (d) if rates and charges are proposed to be imposed, the annual amount of revenue proposed to be collected and whether revenue bonds payable from the rates and charges are proposed to be issued; and (e) the proposed duration of the lake or beach management district; and (4) indicate the date, time, and place of the public hearing designated in the resolution of intention.

In the case of the notice sent to each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost of the lake or beach improvement or maintenance activities to be borne by special assessment, or annual special assessments, or rates and charges on the lot, tract, parcel of land, or other property owned by the owner or reputed owner.

If the county legislative authority has designated a committee of itself or an officer to hear complaints and make recommendations to the full county legislative authority, as provided in RCW 36.61.060, the notice shall also describe this additional step before the full county legislative authority may adopt a resolution creating the lake or beach management district.

Sec. 7. RCW 36.61.050 and 1994 c 264 s 10 are each amended to read as follows:

The county legislative authority shall hold a public hearing on the proposed lake or beach management district at the date, time, and place designated in the resolution of intention.

At this hearing the county legislative authority shall hear objections from any person affected by the formation of the lake or beach management district. Representatives of the departments of fish and wildlife, natural resources, and ecology shall be afforded opportunities to make presentations on and comment on the proposal. Members of the public shall be afforded an opportunity to comment on the proposal. The county legislative authority must consider recommendations provided to it by the departments of fish and wildlife, natural resources, and ecology. The public hearing may be extended to other times and dates declared at the public hearing. The county legislative authority may make such changes in the boundaries of the lake or beach management district or such modification in plans for the proposed lake or beach improvement or maintenance activities as it deems necessary. The county legislative authority may not change boundaries of the lake or beach management district to include property that was not included previously without first passing an amended resolution of intention and giving new notice to the owners or reputed owners of property newly included in the proposed lake or beach management district in the manner and form and within the time provided for the original notice. The

county legislative authority shall not alter the plans for the proposed lake or beach improvement or maintenance activities to result in an increase in the amount of money proposed to be raised, and shall not increase the amount of money proposed to be raised, without first passing an amended resolution of intention and giving new notice to property owners in the manner and form and within the time provided for the original notice.

Sec. 8. RCW 36.61.060 and 1985 c 398 s 10 are each amended to read as follows:

A county legislative authority may adopt an ordinance providing for a committee of itself, or an officer, to hold public hearings on the proposed formation of a lake or beach management district and hear objections to the proposed formation as provided in RCW 36.61.050. The committee or officer shall make a recommendation to the full legislative authority, which need not hold a public hearing on the proposed creation of the lake or beach management district. The full county legislative authority by resolution may approve or disapprove the recommendation and submit the question of creating the lake or beach management district to the property owners as provided in RCW 36.61.070 through 36.61.100.

Sec. 9. RCW 36.61.070 and 1987 c 432 s 5 are each amended to read as follows:

After the public hearing, the county legislative authority may adopt a resolution submitting the question of creating the lake or beach management district to the owners of land within the proposed lake or beach management district, including publicly owned land, if the county legislative authority finds that it is in the public interest to create the lake or beach management district and the financing of the lake or beach improvement and maintenance activities is feasible. The resolution shall also include: (1) A plan describing the proposed lake or beach improvement and maintenance activities which avoid adverse impacts on fish and wildlife and provide for appropriate measures to protect and enhance fish and wildlife; (2) the number of years the lake or beach management district will exist; (3) the amount to be raised by special assessments or rates and charges; (4) if special assessments are to be imposed, whether the special assessments shall be imposed annually for the duration of the lake or beach management district or only once with the possibility of installments being imposed and lake or beach management bonds being issued, or both, and, if both types of special assessments are proposed to be imposed, the lake or beach improvement or maintenance activities proposed to be financed by each type of special assessment; (5) if rates and charges are to be imposed, a description of the rates and charges and the possibility of revenue bonds being issued that are payable from the rates and charges; and (6) the estimated special assessment or rate and charge proposed to be imposed on each parcel included in the proposed lake or beach management district.

No lake or beach management district may be created by a county that includes territory located in another county without the approval of the legislative authority of the other county.

Sec. 10. RCW 36.61.080 and 1987 c 432 s 6 are each amended to read as follows:

(1) A ballot shall be mailed to each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed lake management district, including publicly owned land, which ballot shall contain the following proposition:

"Shall lake management district No. . . . . be formed?
Yes . . . . . .
No . . . . . ."

(2) A ballot shall be mailed to each owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed beach management district, including publicly owned land, which ballot shall contain the following proposition:

"Shall beach management district No. . . . . be formed?
Yes . . . . . .
No . . . . . ."

(3) In addition, the ballot shall contain appropriate spaces for the signatures of the landowner or landowners, or officer authorized to cast such a ballot. Each ballot shall include a description of the property owner's property and the estimated special assessment, or rate and charge, proposed to be imposed upon the property. A copy of the instructions and the resolution submitting the question to the landowners shall also be included.

Sec. 11. RCW 36.61.090 and 1987 c 432 s 7 are each amended to read as follows:

The balloting shall be subject to the following conditions, which shall be included in the instructions mailed with each ballot, as provided in RCW 36.61.080: (1) All ballots must be signed by the owner or reputed owner of property according to the assessor's tax rolls; (2) each ballot must be returned to the county legislative authority not later than ((~~five o'clock~~)) 5:00 p.m. of a specified day, which shall be at least twenty but not more than thirty days after the ballots are mailed; (3) each property owner shall mark his or her ballot for or against the creation of the proposed lake or beach management district, with the ballot weighted so that the property owner has one vote for each dollar of estimated special assessment or rate and charge proposed to be imposed on his or her property; and (4) the valid ballots shall be tabulated and a simple majority of the votes cast shall determine whether the proposed lake or beach management district shall be approved or rejected.

Sec. 12. RCW 36.61.100 and 1987 c 432 s 8 are each amended to read as follows:

If the proposal receives a simple majority vote in favor of creating the lake or beach management district, the county legislative authority shall adopt an ordinance creating the lake or beach management district and may proceed with establishing the special assessments or rates and charges, collecting the special assessments or rates and charges, and performing the lake or beach improvement or maintenance activities. If a proposed lake management district includes more than one lake and its adjacent areas, the lake management district may only be established if the proposal receives a simple majority vote in favor of creating it by the voters on each lake and its adjacent areas. The county legislative

authority shall publish a notice in a newspaper of general circulation in a lake or beach management district indicating that such an ordinance has been adopted within ten days of the adoption of the ordinance.

The ballots shall be available for public inspection after they are counted.

Sec. 13. RCW 36.61.110 and 1985 c 398 s 11 are each amended to read as follows:

No lawsuit may be maintained challenging the jurisdiction or authority of the county legislative authority to proceed with the lake or beach improvement and maintenance activities and creating the lake or beach management district or in any way challenging the validity of the actions or decisions or any proceedings relating to the actions or decisions unless the lawsuit is served and filed no later than forty days after publication of a notice that the ordinance has been adopted ordering the lake or beach improvement and maintenance activities and creating the lake or beach management district. Written notice of the appeal shall be filed with the county legislative authority and clerk of the superior court in the county in which the property is situated.

Sec. 14. RCW 36.61.115 and 1987 c 432 s 9 are each amended to read as follows:

A special assessment, or rate and charge, on any lot, tract, parcel of land, or other property shall not be increased beyond one hundred ten percent of the estimated special assessment, or rate and charge, proposed to be imposed as provided in the resolution adopted in RCW 36.61.070, unless the creation of a lake or beach management district is approved under another mailed ballot election that reflects the weighted voting arising from such increases.

Sec. 15. RCW 36.61.120 and 1985 c 398 s 12 are each amended to read as follows:

After a lake or beach management district is created, the county shall prepare a proposed special assessment roll. A separate special assessment roll shall be prepared for annual special assessments if both annual special assessments and special assessments paid at one time are imposed. The proposed special assessment roll shall list: (1) Each separate lot, tract, parcel of land, or other property in the lake or beach management district; (2) the acreage of such property, and the number of feet of lake or beach frontage, if any; (3) the name and address of the owner or reputed owner of each lot, tract, parcel of land, or other property as shown on the tax rolls of the county assessor; and (4) the special assessment proposed to be imposed on each lot, tract, parcel of land, or other property, or the annual special assessments proposed to be imposed on each lot, tract, parcel of land, or other property.

At the time, date, and place fixed for a public hearing, the county legislative authority shall act as a board of equalization and hear objections to the special assessment roll, and at the times to which the public hearing may be adjourned, the county legislative authority may correct, revise, raise, lower, change, or modify the special assessment roll or any part thereof, or set the proposed special assessment roll aside and order a new proposed special assessment roll to be prepared. The county legislative authority shall confirm and approve a special assessment roll by adoption of a resolution.

If a proposed special assessment roll is amended to raise any special assessment appearing thereon or to include omitted property, a new public

hearing shall be held. The new public hearing shall be limited to considering the increased special assessments or omitted property. Notices shall be sent to the owners or reputed owners of the affected property in the same manner and form and within the time provided for the original notice.

Objections to a proposed special assessment roll must be made in writing, shall clearly state the grounds for objections, and shall be filed with the governing body prior to the public hearing. Objections to a special assessment or annual special assessments that are not made as provided in this section shall be deemed waived and shall not be considered by the governing body or a court on appeal.

Sec. 16. RCW 36.61.140 and 1985 c 398 s 14 are each amended to read as follows:

Notice of the original public hearing on the proposed special assessment roll, and any public hearing held as a result of raising special assessments or including omitted property, shall be published and mailed to the owner or reputed owner of the property as provided in RCW 36.61.040 for the public hearing on the formation of the lake or beach management district. However, the notice need only provide the total amount to be collected by the special assessment roll and shall state that: (1) A public hearing on the proposed special assessment roll will be held, giving the time, date, and place of the public hearing; (2) the proposed special assessment roll is available for public perusal, giving the times and location where the proposed special assessment roll is available for public perusal; (3) objections to the proposed special assessment must be in writing, include clear grounds for objections, and must be filed prior to the public hearing; and (4) failure to so object shall be deemed to waive an objection.

Notices mailed to the owners or reputed owners shall additionally indicate the amount of special assessment ascribed to the particular lot, tract, parcel of land, or other property owned by the person so notified.

Sec. 17. RCW 36.61.160 and 1987 c 432 s 10 are each amended to read as follows:

Whenever special assessments are imposed, all property included within a lake or beach management district shall be considered to be the property specially benefited by the lake or beach improvement or maintenance activities and shall be the property upon which special assessments are imposed to pay the costs and expenses of the lake or beach improvement or maintenance activities, or such part of the costs and expenses as may be chargeable against the property specially benefited. The special assessments shall be imposed on property in accordance with the special benefits conferred on the property up to but not in excess of the total costs and expenses of the lake or beach improvement or maintenance activities as provided in the special assessment roll.

Special assessments may be measured by front footage, acreage, the extent of improvements on the property, or any other factors that are deemed to fairly reflect special benefits, including those authorized under RCW 35.51.030. Special assessments may be calculated by using more than one factor. Zones around the public improvement may be used that reflect different levels of benefit in each zone that are measured by a front footage, acreage, the extent of improvements, or other factors.

Public property, including property owned by the state of Washington, shall be subject to special assessments to the same extent that private property is subject to the special assessments, except no lien shall extend to public property.

Sec. 18. RCW 36.61.170 and 1985 c 398 s 17 are each amended to read as follows:

The total annual special assessments may not exceed the estimated cost of the lake or beach improvement or maintenance activities proposed to be financed by such special assessments, as specified in the resolution of intention. The total of special assessments imposed in a lake or beach management district that are of the nature of special assessments imposed in a local improvement district shall not exceed one hundred fifty percent of the estimated total cost of the lake or beach improvement or maintenance activities that are proposed to be financed by the lake or beach management district as specified in the resolution of intention. After a lake or beach management district has been created, the resolution of intention may be amended to increase the amount to be financed by the lake or beach management district by using the same procedure in which a lake or beach management district is created.

Sec. 19. RCW 36.61.190 and 1985 c 398 s 19 are each amended to read as follows:

Special assessments and installments on any special assessment shall be collected by the county treasurer.

The county treasurer shall publish a notice indicating that the special assessment roll has been confirmed and that the special assessments are to be collected. The notice shall indicate the duration of the lake or beach management district and shall describe whether the special assessments will be paid in annual payments for the duration of the lake or beach management district, or whether the full special assessments will be payable at one time, with the possibility of periodic installments being paid and lake or beach management bonds being issued, or both.

If the special assessments are to be payable at one time, the notice additionally shall indicate that all or any portion of the special assessments may be paid within thirty days from the date of publication of the first notice without penalty or interest. This notice shall be published in a newspaper of general circulation in the lake or beach management district.

Within ten days of the first newspaper publication, the county treasurer shall notify each owner or reputed owner of property whose name appears on the special assessment roll, at the address shown on the special assessment roll, for each item of property described on the list: (1) Whether one special assessment payable at one time or special assessments payable annually have been imposed; (2) the amount of the property subject to the special assessment or annual special assessments; and (3) the total amount of the special assessment due at one time, or annual amount of special assessments due. If the special assessment is due at one time, the notice shall also describe the thirty-day period during which the special assessment may be paid without penalty, interest, or cost.

Sec. 20. RCW 36.61.200 and 1985 c 398 s 20 are each amended to read as follows:

If the special assessments are to be payable at one time, all or any portion of any special assessment may be paid without interest, penalty, or costs during this

thirty-day period and placed into a special fund to defray the costs of the lake or beach improvement or maintenance activities. The remainder shall be paid in installments as provided in a resolution adopted by the county legislative authority, but the last installment shall be due at least two years before the maximum term of the bonds issued to pay for the improvements or maintenance. The installments shall include amounts sufficient to redeem the bonds issued to pay for the lake or beach improvement and maintenance activities. A twenty-day period shall be allowed after the due date of any installment within which no interest, penalty, or costs on the installment may be imposed.

The county shall establish by ordinance an amount of interest that will be imposed on late special assessments imposed annually or at once, and on installments of a special assessment. The ordinance shall also specify the penalty, in addition to the interest, that will be imposed on a late annual special assessment, special assessment, or installment which shall not be less than five percent of the delinquent special assessment or installment.

The owner of any lot, tract, parcel of land, or other property charged with a special assessment may redeem it from all liability for the unpaid amount of the installments by paying, to the county treasurer, the remaining portion of the installments that is attributable to principal on the lake or beach management district bonds.

Sec. 21. RCW 36.61.220 and 1985 c 398 s 22 are each amended to read as follows:

Within fifteen days after a county creates a lake or beach management district, the county shall cause to be filed with the county treasurer, a description of the lake or beach improvement and maintenance activities proposed that the lake or beach management district finances, the lake or beach management district number, and a copy of the diagram or print showing the boundaries of the lake or beach management district and preliminary special assessment roll or abstract of same showing thereon the lots, tracts, parcels of land, and other property that will be specially benefited thereby and the estimated cost and expense of such lake or beach improvement and maintenance activities to be borne by each lot, tract, parcel of land, or other property. The treasurer shall immediately post the proposed special assessment roll upon his or her index of special assessments against the properties affected by the lake or beach improvement or maintenance activities.

Sec. 22. RCW 36.61.230 and 1985 c 398 s 23 are each amended to read as follows:

The special assessment or annual special assessments imposed upon the respective lots, tracts, parcels of land, and other property in the special assessment roll or annual special assessment roll confirmed by resolution of the county legislative authority for the purpose of paying the cost and expense in whole or in part of any lake or beach improvement or maintenance activities shall be a lien upon the property assessed from the time the special assessment roll is placed in the hands of the county treasurer for collection, but as between the grantor and grantee, or vendor and vendee of any real property, when there is no express agreement as to payment of the special assessments against the real property, the lien of such special assessments shall attach thirty days after the filing of the diagram or print and the estimated cost and expense of such lake or

beach improvement or maintenance activities to be borne by each lot, tract, parcel of land, or other property, as provided in RCW 36.61.220. Interest and penalty shall be included in and shall be a part of the special assessment lien. No lien shall extend to public property subjected to special assessments.

The special assessment lien shall be paramount and superior to any other lien or encumbrance theretofore or thereafter created except a lien for general taxes.

Sec. 23. RCW 36.61.260 and 2000 c 184 s 6 are each amended to read as follows:

(1) Counties may issue lake or beach management district bonds in accordance with this section. Lake or beach management district bonds may be issued to obtain money sufficient to cover that portion of the special assessments that are not paid within the thirty-day period provided in RCW 36.61.190.

Whenever lake or beach management district bonds are proposed to be issued, the county legislative authority shall create a special fund or funds for the lake or beach management district from which all or a portion of the costs of the lake or beach improvement and maintenance activities shall be paid. Lake or beach management district bonds shall not be issued in excess of the costs and expenses of the lake or beach improvement and maintenance activities and shall not be issued prior to twenty days after the thirty days allowed for the payment of special assessments without interest or penalties.

Lake or beach management district bonds shall be exclusively payable from the special fund or funds and from a guaranty fund that the county may have created out of a portion of proceeds from the sale of the lake or beach management district bonds.

(2) Lake or beach management district bonds shall not constitute a general indebtedness of the county issuing the bond nor an obligation, general or special, of the state. The owner of any lake or beach management district bond shall not have any claim for the payment thereof against the county that issues the bonds except for payment from the special assessments made for the lake or beach improvement or maintenance activities for which the lake or beach management district bond was issued and from a lake or beach management district guaranty fund that may have been created. The county shall not be liable to the owner of any lake or beach management district bond for any loss to the lake or beach management district guaranty fund occurring in the lawful operation of the fund. The owner of a lake or beach management district bond shall not have any claim against the state arising from the lake or beach management district bond, special assessments, or guaranty fund. Tax revenues shall not be used to secure or guarantee the payment of the principal of or interest on lake or beach management district bonds.

The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each lake or beach management district bond that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the lake or beach management district bonds.

(3) If the county fails to make any principal or interest payments on any lake or beach management district bond or to promptly collect any special assessment securing the bonds when due, the owner of the lake or beach management district bond may obtain a writ of mandamus from any court of competent

jurisdiction requiring the county to collect the special assessments, foreclose on the related lien, and make payments out of the special fund or guaranty fund if one exists. Any number of owners of lake or beach management districts may join as plaintiffs.

(4) A county may create a lake or beach management district bond guaranty fund for each issue of lake or beach management district bonds. The guaranty fund shall only exist for the life of the lake or beach management district bonds with which it is associated. A portion of the bond proceeds may be placed into a guaranty fund. Unused moneys remaining in the guaranty fund during the last two years of the installments shall be used to proportionally reduce the required level of installments and shall be transferred into the special fund into which installment payments are placed.

(5) Lake or beach management district bonds shall be issued and sold in accordance with chapter 39.46 RCW. The authority to create a special fund or funds shall include the authority to create accounts within a fund.

Sec. 24. RCW 36.61.270 and 1987 c 432 s 11 are each amended to read as follows:

Whenever rates and charges are to be imposed in a lake or beach management district, the county legislative authority shall prepare a roll of rates and charges that includes those matters required to be included in a special assessment roll and shall hold a public hearing on the proposed roll of rates and charges as provided under RCW 36.61.120 through 36.61.150 for a special assessment roll. The county legislative authority shall have full jurisdiction and authority to fix, alter, regulate, and control the rates and charges imposed by a lake or beach management district and may classify the rates or charges by any reasonable factor or factors, including benefit, use, front footage, acreage, the extent of improvements on the property, the type of improvements on the property, uses to which the property is put, service to be provided, and any other reasonable factor or factors. The flexibility to establish rates and charges includes the authority to reduce rates and charges on property owned by low-income persons.

Except as provided in this section, the collection of rates and charges, lien status of unpaid rates and charges, and method of foreclosing on such liens shall be subject to the provisions of chapter 36.94 RCW. Public property, including state property, shall be subject to the rates and charges to the same extent that private property is subject to them, except that liens may not be foreclosed on the public property, and the procedure for imposing such rates and charges on state property shall conform with the procedure provided for in chapter 79.44 RCW concerning the imposition of special assessments upon state property. The total amount of rates and charges cannot exceed the cost of lake or beach improvement or maintenance activities proposed to be financed by such rates and charges, as specified in the resolution of intention. Revenue bonds exclusively payable from the rates and charges may be issued by the county under chapter 39.46 RCW.

Sec. 25. RCW 36.94.020 and 1997 c 447 s 11 are each amended to read as follows:

The construction, operation, and maintenance of a system of sewerage and/or water is a county purpose. Subject to the provisions of this chapter, every

county has the power, individually or in conjunction with another county or counties to adopt, provide for, accept, establish, condemn, purchase, construct, add to, operate, and maintain a system or systems of sanitary and storm sewers, including outfalls, interceptors, plans, and facilities and services necessary for sewerage treatment and disposal, and/or system or systems of water supply within all or a portion of the county. However, counties shall not have power to condemn sewerage and/or water systems of any municipal corporation or private utility.

Such county or counties shall have the authority to control, regulate, operate, and manage such system or systems and to provide funds therefor by general obligation bonds, revenue bonds, local improvement district bonds, utility local improvement district or local improvement district assessments, and in any other lawful fiscal manner. Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer.

Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

A county shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using county employees unless the on-site system is connected by a publicly owned collection system to the county's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of a state or local health officer to carry out their responsibilities under any other applicable law.

A county may, as part of a system of sewerage established under this chapter, provide for, finance, and operate any of the facilities and services and may exercise the powers expressly authorized for county storm water, flood control, pollution prevention, and drainage services and activities under chapters 36.89, 86.12, 86.13, and 86.15 RCW. A county also may provide for, finance, and operate the facilities and services and may exercise any of the powers authorized for aquifer protection areas under chapter 36.36 RCW; for lake or beach management districts under chapter 36.61 RCW; for diking districts, and diking, drainage, and sewerage improvement districts under chapters 85.05, 85.08, 85.15, 85.16, and 85.18 RCW; and for shellfish protection districts under chapter 90.72 RCW. However, if a county by reference to any of those statutes assumes as part of its system of sewerage any powers granted to such areas or districts and not otherwise available to a county under this chapter, then (1) the procedures and restrictions applicable to those areas or districts apply to the county's exercise of those powers, and (2) the county may not simultaneously

impose rates and charges under this chapter and under the statutes authorizing such areas or districts for substantially the same facilities and services, but must instead impose uniform rates and charges consistent with RCW 36.94.140. By agreement with such an area or district that is not part of a county's system of sewerage, a county may operate that area's or district's services or facilities, but a county may not dissolve any existing area or district except in accordance with any applicable provisions of the statute under which that area or district was created.

Sec. 26. RCW 39.34.190 and 2003 c 327 s 2 are each amended to read as follows:

(1) The legislative authority of a city or county and the governing body of any special purpose district enumerated in subsection (2) of this section may authorize up to ten percent of its water-related revenues to be expended in the implementation of watershed management plan projects or activities that are in addition to the county's, city's, or district's existing water-related services or activities. Such limitation on expenditures shall not apply ((~~to additional revenues for watershed plan implementation that are authorized by voter approval under section 5 of this act or~~)) to water-related revenues of a public utility district organized according to Title 54 RCW. Water-related revenues include rates, charges, and fees for the provision of services relating to water supply, treatment, distribution, and management generally, and those general revenues of the local government that are expended for water management purposes. A local government may not expend for this purpose any revenues that were authorized by voter approval for other specified purposes or that are specifically dedicated to the repayment of municipal bonds or other debt instruments.

(2) The following special purpose districts may exercise the authority provided by this section:

(a) Water districts, sewer districts, and water-sewer districts organized under Title 57 RCW;

(b) Public utility districts organized under Title 54 RCW;

(c) Irrigation, reclamation, conservation, and similar districts organized under Titles 87 and 89 RCW;

(d) Port districts organized under Title 53 RCW;

(e) Diking, drainage, and similar districts organized under Title 85 RCW;

(f) Flood control and similar districts organized under Title 86 RCW;

(g) Lake <u>or beach</u> management districts organized under chapter 36.61 RCW;

(h) Aquifer protection areas organized under chapter 36.36 RCW; and

(i) Shellfish protection districts organized under chapter 90.72 RCW.

(3) The authority for expenditure of local government revenues provided by this section shall be applicable broadly to the implementation of watershed management plans addressing water supply, water transmission, water quality treatment or protection, or any other water-related purposes. Such plans include but are not limited to plans developed under the following authorities:

(a) Watershed plans developed under chapter 90.82 RCW;

(b) Salmon recovery plans developed under chapter 77.85 RCW;

(c) Watershed management elements of comprehensive land use plans developed under the growth management act, chapter 36.70A RCW;

(d) Watershed management elements of shoreline master programs developed under the shoreline management act, chapter 90.58 RCW;

(e) Nonpoint pollution action plans developed under the Puget Sound water quality management planning authorities of chapter 90.71 RCW and chapter 400-12 WAC;

(f) Other comprehensive management plans addressing watershed health at a WRIA level or sub-WRIA basin drainage level;

(g) Coordinated water system plans under chapter 70.116 RCW and similar regional plans for water supply; and

(h) Any combination of the foregoing plans in an integrated watershed management plan.

(4) The authority provided by this section to expend revenues for watershed management plan implementation shall be construed broadly to include, but not be limited to:

(a) The coordination and oversight of plan implementation, including funding a watershed management partnership for this purpose;

(b) Technical support, monitoring, and data collection and analysis;

(c) The design, development, construction, and operation of projects included in the plan; and

(d) Conducting activities and programs included as elements in the plan.

Sec. 27. RCW 86.09.151 and 1986 c 278 s 52 are each amended to read as follows:

(1) Said flood control districts shall have full authority to carry out the objects of their creation and to that end are authorized to acquire, purchase, hold, lease, manage, improve, repair, occupy, and sell real and personal property or any interest therein, either inside or outside the boundaries of the district, to enter into and perform any and all necessary contracts, to appoint and employ the necessary officers, agents and employees, to sue and be sued, to exercise the right of eminent domain, to levy and enforce the collection of special assessments and in the manner herein provided against the lands within the district, for district revenues, and to do any and all lawful acts required and expedient to carry out the purpose of this chapter.

(2) In addition to the powers conferred in this chapter and those in chapter 85.38 RCW, flood control districts may engage in activities authorized under RCW 36.61.020 for lake <u>or beach</u> management districts using procedures granted in this chapter and in chapter 85.38 RCW.

Sec. 28. RCW 35.21.403 and 1985 c 398 s 27 are each amended to read as follows:

Any city or town may establish lake <u>and beach</u> management districts within its boundaries as provided in chapter 36.61 RCW. When a city or town establishes a lake <u>or beach</u> management district pursuant to chapter 36.61 RCW, the term "county legislative authority" shall be deemed to mean the city or town governing body, the term "county" shall be deemed to mean the city or town, and the term "county treasurer" shall be deemed to mean the city or town treasurer or other fiscal officer.

<u>NEW SECTION.</u> Sec. 29. A new section is added to chapter 43.21A RCW to read as follows:

(1) The department shall, within available funds, provide technical assistance to community groups and county and city legislative authorities requesting assistance with the development of beach management programs. The department shall work with the departments of fish and wildlife, natural resources, and the Puget Sound partnership in coordinating agency assistance to community groups and county and city legislative authorities.

(2) The department shall coordinate with relevant state agencies and marine resources committees established in the area of beach management districts to provide technical assistance to beach management districts.

(3) The department shall, within available funds, coordinate with relevant state agencies to provide technical assistance to beach management districts so that beach management districts are able to ensure that proposed beach improvement and maintenance plans and activities of these districts are consistent with applicable federal, state, and local laws, and federal, state, and local resource management plans including, but not limited to:

(a) Shoreline master programs;

(b) Development regulations adopted to protect critical areas;

(c) State and federally identified habitat conservation plans and species recovery plans;

(d) State marine species management plans; and

(e) Shoreline and nearshore protection and restoration plans.

(4) The department, in consultation with the Puget Sound partnership, shall monitor and assess the results of the removal of native aquatic plants and vegetation in areas designated in section 2(4) of this act, and provide recommendations regarding areas for future designations.

***Sec. 29 was vetoed. See message at end of chapter.**

****NEW SECTION. Sec. 30. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.***

***Sec. 30 was vetoed. See message at end of chapter.**

Passed by the House March 8, 2008.
Passed by the Senate March 4, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 29 and 30, Engrossed Second Substitute House Bill 3186 entitled:

"AN ACT Relating to beach management districts."

This bill allows cities and counties to create Beach Management Districts, in order to raise funds for the improvement and maintenance of beaches with their boundaries.

Notwithstanding the existing authority provided to Lake Management Districts, Section 29 directs the Department of Ecology to provide technical assistance to Beach Management Districts in consultation with the Puget Sound Partnership. Since the Puget Sound Partnership is developing its first action agenda, the activities contemplated in Section 29 should be considered in relation to all other priorities for the clean up of Puget Sound.

Section 30 is a null and void clause and is unneeded.

For these reasons, I have vetoed Sections 29 and 30 of Engrossed Second Substitute House Bill 3186.

With the exception of Sections 29 and 30, Engrossed Second Substitute House Bill 3186 is approved."

CHAPTER 302

[Second Engrossed Substitute Senate Bill 5100]

HEALTH INSURANCE—STUDENTS—INFORMATION

AN ACT Relating to information for students regarding health insurance; adding a new section to chapter 28A.210 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) By August 1, 2008, the superintendent of public instruction shall solicit and select up to six school districts to implement, on a pilot project basis, this section. The selected school districts shall include districts from urban and rural areas, and eastern and western Washington.

(2) Beginning with the 2008-09 school year, as part of a public school's enrollment process, each school participating as a pilot project shall annually inquire whether a student has health insurance. The school shall include in the inquiry a statement explaining that an outreach worker may contact families with uninsured students about options for health care coverage. The inquiry shall make provision for the parent or guardian to authorize the sharing of information for this purpose, consistent with state and federal confidentiality requirements.

(3) The school shall record each student's health insurance status in the district's student information system.

(4) By December 1, 2008, from the district's student information system, the pilot school shall develop a list of students without insurance for whom parent authorization to share information was granted. To the extent such information is available, the list shall include:

(a) Identifiers, including each student's full name and date of birth; and

(b) Parent or guardian contact information, including telephone number, e-mail address, and street address.

(5) By September 1, 2008, the department and superintendent shall develop and make available a model agreement to enable schools to share student information in compliance with state and federal confidentiality requirements.

(6) By January 1, 2009, each participating pilot school and a local outreach organization, where available, shall work to put in place an agreement to share student information in accordance with state and federal confidentiality requirements. Once an agreement is in place, the school shall share the list described in subsection (4) of this section with the outreach organization.

(7) The outreach organization shall use the information on the list to contact families and assist them to enroll students on a medical program, in accordance with chapter 74.09 RCW.

(8) By July 1, 2009, pilot schools shall report to the superintendent of public instruction:

(a) The number of students identified without health insurance under subsection (2) of this section; and

(b) Whether an agreement as described under subsection (6) of this section is in place.

(9) By December 1, 2009, the department and the superintendent shall submit a joint report to the legislature that provides:

(a) Summary information on the number of students identified without insurance;

(b) The number of schools with agreements with outreach organizations and the number without such agreements;

(c) The cost of collecting and reporting data;

(d) The impact of such outreach efforts they can quantify; and

(e) Any recommendations for changes that would improve the efficiency or effectiveness of outreach efforts described in this section.

(10) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

(b) "Superintendent" means the superintendent of public instruction.

(c) "Outreach organization" means a nonprofit organization or a local government entity either contracting with the department pursuant to chapter 74.09 RCW, or otherwise qualified to provide outreach, education, and enrollment services to uninsured children.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 8, 2008.
Passed by the House March 6, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 303

[Engrossed Substitute Senate Bill 5261]

INSURANCE COMMISSIONER—AUTHORITY—RATE REVIEW

AN ACT Relating to granting the insurance commissioner the authority to review individual health benefit plan rates; amending RCW 48.18.110, 48.44.020, 48.46.060, 48.20.025, 48.44.017, and 48.46.062; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.18.110 and 2000 c 79 s 2 are each amended to read as follows:

(1) The commissioner shall disapprove any such form of policy, application, rider, or endorsement, or withdraw any previous approval thereof, only:

(a) If it is in any respect in violation of or does not comply with this code or any applicable order or regulation of the commissioner issued pursuant to the code; or

(b) If it does not comply with any controlling filing theretofore made and approved; or

(c) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or

deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(d) If it has any title, heading, or other indication of its provisions which is misleading; or

(e) If purchase of insurance thereunder is being solicited by deceptive advertising.

(2) In addition to the grounds for disapproval of any such form as provided in subsection (1) of this section, the commissioner may disapprove any form of disability insurance policy((~~, except an individual health benefit plan,~~)) if the benefits provided therein are unreasonable in relation to the premium charged. Rates, or any modification of rates effective on or after July 1, 2008, for individual health benefit plans may not be used until sixty days after they are filed with the commissioner. If the commissioner does not disapprove a rate filing within sixty days after the insurer has filed the documents required in RCW 48.20.025(2) and any rules adopted pursuant thereto, the filing shall be deemed approved.

Sec. 2. RCW 48.44.020 and 2000 c 79 s 28 are each amended to read as follows:

(1) Any health care service contractor may enter into contracts with or for the benefit of persons or groups of persons which require prepayment for health care services by or for such persons in consideration of such health care service contractor providing one or more health care services to such persons and such activity shall not be subject to the laws relating to insurance if the health care services are rendered by the health care service contractor or by a participating provider.

(2) The commissioner may on examination, subject to the right of the health care service contractor to demand and receive a hearing under chapters 48.04 and 34.05 RCW, disapprove any individual or group contract form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(b) If it has any title, heading, or other indication of its provisions which is misleading; or

(c) If purchase of health care services thereunder is being solicited by deceptive advertising; or

(d) If it contains unreasonable restrictions on the treatment of patients; or

(e) If it violates any provision of this chapter; or

(f) If it fails to conform to minimum provisions or standards required by regulation made by the commissioner pursuant to chapter 34.05 RCW; or

(g) If any contract for health care services with any state agency, division, subdivision, board, or commission or with any political subdivision, municipal corporation, or quasi-municipal corporation fails to comply with state law.

(3) In addition to the grounds listed in subsection (2) of this section, the commissioner may disapprove any ((~~group~~)) contract if the benefits provided therein are unreasonable in relation to the amount charged for the contract. Rates, or any modification of rates effective on or after July 1, 2008, for individual health benefit plans may not be used until sixty days after they are

filed with the commissioner. If the commissioner does not disapprove a rate filing within sixty days after the health care service contractor has filed the documents required in RCW 48.44.017(2) and any rules adopted pursuant thereto, the filing shall be deemed approved.

(4)(a) Every contract between a health care service contractor and a participating provider of health care services shall be in writing and shall state that in the event the health care service contractor fails to pay for health care services as provided in the contract, the enrolled participant shall not be liable to the provider for sums owed by the health care service contractor. Every such contract shall provide that this requirement shall survive termination of the contract.

(b) No participating provider, agent, trustee, or assignee may maintain any action against an enrolled participant to collect sums owed by the health care service contractor.

Sec. 3. RCW 48.46.060 and 2000 c 79 s 31 are each amended to read as follows:

(1) Any health maintenance organization may enter into agreements with or for the benefit of persons or groups of persons, which require prepayment for health care services by or for such persons in consideration of the health maintenance organization providing health care services to such persons. Such activity is not subject to the laws relating to insurance if the health care services are rendered directly by the health maintenance organization or by any provider which has a contract or other arrangement with the health maintenance organization to render health services to enrolled participants.

(2) All forms of health maintenance agreements issued by the organization to enrolled participants or other marketing documents purporting to describe the organization's comprehensive health care services shall comply with such minimum standards as the commissioner deems reasonable and necessary in order to carry out the purposes and provisions of this chapter, and which fully inform enrolled participants of the health care services to which they are entitled, including any limitations or exclusions thereof, and such other rights, responsibilities and duties required of the contracting health maintenance organization.

(3) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and 34.05 RCW, the commissioner may disapprove an individual or group agreement form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions or conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the agreement;

(b) If it has any title, heading, or other indication which is misleading;

(c) If purchase of health care services thereunder is being solicited by deceptive advertising;

(d) If it contains unreasonable restrictions on the treatment of patients;

(e) If it is in any respect in violation of this chapter or if it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.05 RCW; or

(f) If any agreement for health care services with any state agency, division, subdivision, board, or commission or with any political subdivision, municipal corporation, or quasi-municipal corporation fails to comply with state law.

(4) In addition to the grounds listed in subsection (2) of this section, the commissioner may disapprove any ((~~group~~)) agreement if the benefits provided therein are unreasonable in relation to the amount charged for the agreement. Rates, or any modification of rates effective on or after July 1, 2008, for individual health benefit plans may not be used until sixty days after they are filed with the commissioner. If the commissioner does not disapprove a rate filing within sixty days after the health maintenance organization has filed the documents required in RCW 48.46.062(2) and any rules adopted pursuant thereto, the filing shall be deemed approved.

(5) No health maintenance organization authorized under this chapter shall cancel or fail to renew the enrollment on any basis of an enrolled participant or refuse to transfer an enrolled participant from a group to an individual basis for reasons relating solely to age, sex, race, or health status. Nothing contained herein shall prevent cancellation of an agreement with enrolled participants (a) who violate any published policies of the organization which have been approved by the commissioner, or (b) who are entitled to become eligible for medicare benefits and fail to enroll for a medicare supplement plan offered by the health maintenance organization and approved by the commissioner, or (c) for failure of such enrolled participant to pay the approved charge, including cost-sharing, required under such contract, or (d) for a material breach of the health maintenance agreement.

(6) No agreement form or amendment to an approved agreement form shall be used unless it is first filed with the commissioner.

Sec. 4. RCW 48.20.025 and 2003 c 248 s 8 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Claims" means the cost to the insurer of health care services, as defined in RCW 48.43.005, provided to a policyholder or paid to or on behalf of the policyholder in accordance with the terms of a health benefit plan, as defined in RCW 48.43.005. This includes capitation payments or other similar payments made to providers for the purpose of paying for health care services for a policyholder.

(b) "Claims reserves" means: (i) The liability for claims which have been reported but not paid; (ii) the liability for claims which have not been reported but which may reasonably be expected; (iii) active life reserves; and (iv) additional claims reserves whether for a specific liability purpose or not.

(c) "Declination rate" for an insurer means the percentage of the total number of applicants for individual health benefit plans received by that insurer in the aggregate in the applicable year which are not accepted for enrollment by that insurer based on the results of the standard health questionnaire administered pursuant to RCW 48.43.018(2)(a).

(d) "Earned premiums" means premiums, as defined in RCW 48.43.005, plus any rate credits or recoupments less any refunds, for the applicable period, whether received before, during, or after the applicable period.

(((~~(d)~~))) (e) "Incurred claims expense" means claims paid during the applicable period plus any increase, or less any decrease, in the claims reserves.

(((~~(e)~~))) (f) "Loss ratio" means incurred claims expense as a percentage of earned premiums.

(((~~(f)~~))) (g) "Reserves" means: (i) Active life reserves; and (ii) additional reserves whether for a specific liability purpose or not.

(2) ((~~An insurer shall file, for informational purposes only, a notice of its schedule of rates for its individual health benefit plans with the commissioner prior to use.~~

~~(3)~~)) An insurer ((~~shall~~)) must file ((~~with the notice required under subsection (2) of this section~~)) supporting documentation of its method of determining the rates charged((~~. The commissioner may request only~~)) for its individual health benefit plans. At a minimum, the insurer must provide the following supporting documentation:

(a) A description of the insurer's rate-making methodology;

(b) An actuarially determined estimate of incurred claims which includes the experience data, assumptions, and justifications of the insurer's projection;

(c) The percentage of premium attributable in aggregate for nonclaims expenses used to determine the adjusted community rates charged; and

(d) A certification by a member of the American academy of actuaries, or other person approved by the commissioner, that the adjusted community rate charged can be reasonably expected to result in a loss ratio that meets or exceeds the loss ratio standard ((~~established in subsection (7) of this section~~)) of seventy-four percent, minus the premium tax rate applicable to the insurer's individual health benefit plans under RCW 48.14.020.

(((~~(4) The commissioner may not disapprove or otherwise impede the implementation of the filed rates.~~

~~(5)~~))) (3) By the last day of May each year any insurer issuing or renewing individual health benefit plans in this state during the preceding calendar year shall file for review by the commissioner supporting documentation of its actual loss ratio and its actual declination rate for its individual health benefit plans offered or renewed in the state in aggregate for the preceding calendar year. The filing shall include aggregate earned premiums, aggregate incurred claims, and a certification by a member of the American academy of actuaries, or other person approved by the commissioner, that the actual loss ratio has been calculated in accordance with accepted actuarial principles.

(a) At the expiration of a thirty-day period beginning with the date the filing is received by the commissioner, the filing shall be deemed approved unless prior thereto the commissioner contests the calculation of the actual loss ratio.

(b) If the commissioner contests the calculation of the actual loss ratio, the commissioner shall state in writing the grounds for contesting the calculation to the insurer.

(c) Any dispute regarding the calculation of the actual loss ratio shall, upon written demand of either the commissioner or the insurer, be submitted to hearing under chapters 48.04 and 34.05 RCW.

(((~~(6)~~))) (4) If the actual loss ratio for the preceding calendar year is less than the loss ratio established in subsection (((~~(7)~~))) (5) of this section, a remittance is due and the following shall apply:

(a) The insurer shall calculate a percentage of premium to be remitted to the Washington state health insurance pool by subtracting the actual loss ratio for the preceding year from the loss ratio established in subsection ((~~(7)~~)) (5) of this section.

(b) The remittance to the Washington state health insurance pool is the percentage calculated in (a) of this subsection, multiplied by the premium earned from each enrollee in the previous calendar year. Interest shall be added to the remittance due at a five percent annual rate calculated from the end of the calendar year for which the remittance is due to the date the remittance is made.

(c) All remittances shall be aggregated and such amounts shall be remitted to the Washington state high risk pool to be used as directed by the pool board of directors.

(d) Any remittance required to be issued under this section shall be issued within thirty days after the actual loss ratio is deemed approved under subsection ((~~(5)~~)) (3)(a) of this section or the determination by an administrative law judge under subsection ((~~(5)~~)) (3)(c) of this section.

((~~(7)~~)) (5) The loss ratio applicable to this section shall be ((~~seventy-four percent~~)) the percentage set forth in the following schedule that correlates to the insurer's actual declination rate in the preceding year, minus the premium tax rate applicable to the insurer's individual health benefit plans under RCW 48.14.020.

Actual Declination Rate	Loss Ratio
Under Six Percent (6%)	Seventy-Four Percent (74%)
Six Percent (6%) or more (but less than Seven Percent)	Seventy-Five Percent (75%)
Seven Percent (7%) or more (but less than Eight Percent)	Seventy-Six Percent (76%)
Eight Percent (8%) or more	Seventy-Seven Percent (77%)

Sec. 5. RCW 48.44.017 and 2001 c 196 s 11 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Claims" means the cost to the health care service contractor of health care services, as defined in RCW 48.43.005, provided to a contract holder or paid to or on behalf of a contract holder in accordance with the terms of a health benefit plan, as defined in RCW 48.43.005. This includes capitation payments or other similar payments made to providers for the purpose of paying for health care services for an enrollee.

(b) "Claims reserves" means: (i) The liability for claims which have been reported but not paid; (ii) the liability for claims which have not been reported but which may reasonably be expected; (iii) active life reserves; and (iv) additional claims reserves whether for a specific liability purpose or not.

(c) "Declination rate" for a health care service contractor means the percentage of the total number of applicants for individual health benefit plans received by that health care service contractor in the aggregate in the applicable

year which are not accepted for enrollment by that health care service contractor based on the results of the standard health questionnaire administered pursuant to RCW 48.43.018(2)(a).

(d) "Earned premiums" means premiums, as defined in RCW 48.43.005, plus any rate credits or recoupments less any refunds, for the applicable period, whether received before, during, or after the applicable period.

(((~~(d)~~))) (e) "Incurred claims expense" means claims paid during the applicable period plus any increase, or less any decrease, in the claims reserves.

(((~~(e)~~))) (f) "Loss ratio" means incurred claims expense as a percentage of earned premiums.

(((~~(f)~~))) (g) "Reserves" means: (i) Active life reserves; and (ii) additional reserves whether for a specific liability purpose or not.

(2) ((~~A health care service contractor shall file, for informational purposes only, a notice of its schedule of rates for its individual contracts with the commissioner prior to use.~~

~~(3)~~)) A health care service contractor ((~~shall~~)) must file ((~~with the notice required under subsection (2) of this section~~)) supporting documentation of its method of determining the rates charged((~~. The commissioner may request only~~)) for its individual contracts. At a minimum, the health care service contractor must provide the following supporting documentation:

(a) A description of the health care service contractor's rate-making methodology;

(b) An actuarially determined estimate of incurred claims which includes the experience data, assumptions, and justifications of the health care service contractor's projection;

(c) The percentage of premium attributable in aggregate for nonclaims expenses used to determine the adjusted community rates charged; and

(d) A certification by a member of the American academy of actuaries, or other person approved by the commissioner, that the adjusted community rate charged can be reasonably expected to result in a loss ratio that meets or exceeds the loss ratio standard ((~~established in subsection (7) of this section~~)) of seventy-four percent, minus the premium tax rate applicable to the carrier's individual health benefit plans under RCW 48.14.0201.

(((~~(4) The commissioner may not disapprove or otherwise impede the implementation of the filed rates.~~

~~(5)~~))) (3) By the last day of May each year any health care service contractor issuing or renewing individual health benefit plans in this state during the preceding calendar year shall file for review by the commissioner supporting documentation of its actual loss ratio and its actual declination rate for its individual health benefit plans offered or renewed in this state in aggregate for the preceding calendar year. The filing shall include aggregate earned premiums, aggregate incurred claims, and a certification by a member of the American academy of actuaries, or other person approved by the commissioner, that the actual loss ratio has been calculated in accordance with accepted actuarial principles.

(a) At the expiration of a thirty-day period beginning with the date the filing is received by the commissioner, the filing shall be deemed approved unless prior thereto the commissioner contests the calculation of the actual loss ratio.

(b) If the commissioner contests the calculation of the actual loss ratio, the commissioner shall state in writing the grounds for contesting the calculation to the health care service contractor.

(c) Any dispute regarding the calculation of the actual loss ratio shall upon written demand of either the commissioner or the health care service contractor be submitted to hearing under chapters 48.04 and 34.05 RCW.

((~~(6)~~)) (4) If the actual loss ratio for the preceding calendar year is less than the loss ratio standard established in subsection ((~~(7)~~)) (5) of this section, a remittance is due and the following shall apply:

(a) The health care service contractor shall calculate a percentage of premium to be remitted to the Washington state health insurance pool by subtracting the actual loss ratio for the preceding year from the loss ratio established in subsection ((~~(7)~~)) (5) of this section.

(b) The remittance to the Washington state health insurance pool is the percentage calculated in (a) of this subsection, multiplied by the premium earned from each enrollee in the previous calendar year. Interest shall be added to the remittance due at a five percent annual rate calculated from the end of the calendar year for which the remittance is due to the date the remittance is made.

(c) All remittances shall be aggregated and such amounts shall be remitted to the Washington state high risk pool to be used as directed by the pool board of directors.

(d) Any remittance required to be issued under this section shall be issued within thirty days after the actual loss ratio is deemed approved under subsection ((~~(5)~~)) (3)(a) of this section or the determination by an administrative law judge under subsection ((~~(5)~~)) (3)(c) of this section.

((~~(7)~~)) (5) The loss ratio applicable to this section shall be ((~~seventy-four percent~~)) the percentage set forth in the following schedule that correlates to the health care service contractor's actual declination rate in the preceding year, minus the premium tax rate applicable to the health care service contractor's individual health benefit plans under RCW 48.14.0201.

Actual Declination Rate	Loss Ratio
Under Six Percent (6%)	Seventy-Four Percent (74%)
Six Percent (6%) or more (but less than Seven Percent)	Seventy-Five Percent (75%)
Seven Percent (7%) or more (but less than Eight Percent)	Seventy-Six Percent (76%)
Eight Percent (8%) or more	Seventy-Seven Percent (77%)

Sec. 6. RCW 48.46.062 and 2001 c 196 s 12 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Claims" means the cost to the health maintenance organization of health care services, as defined in RCW 48.43.005, provided to an enrollee or paid to or on behalf of the enrollee in accordance with the terms of a health benefit plan, as defined in RCW 48.43.005. This includes capitation payments or other similar

payments made to providers for the purpose of paying for health care services for an enrollee.

(b) "Claims reserves" means: (i) The liability for claims which have been reported but not paid; (ii) the liability for claims which have not been reported but which may reasonably be expected; (iii) active life reserves; and (iv) additional claims reserves whether for a specific liability purpose or not.

(c) "Declination rate" for a health maintenance organization means the percentage of the total number of applicants for individual health benefit plans received by that health maintenance organization in the aggregate in the applicable year which are not accepted for enrollment by that health maintenance organization based on the results of the standard health questionnaire administered pursuant to RCW 48.43.018(2)(a).

(d) "Earned premiums" means premiums, as defined in RCW 48.43.005, plus any rate credits or recoupments less any refunds, for the applicable period, whether received before, during, or after the applicable period.

(((~~(d)~~))) (e) "Incurred claims expense" means claims paid during the applicable period plus any increase, or less any decrease, in the claims reserves.

(((~~(e)~~))) (f) "Loss ratio" means incurred claims expense as a percentage of earned premiums.

(((~~(f)~~))) (g) "Reserves" means: (i) Active life reserves; and (ii) additional reserves whether for a specific liability purpose or not.

(2) ((~~A health maintenance organization shall file, for informational purposes only, a notice of its schedule of rates for its individual agreements with the commissioner prior to use.~~

~~(3)~~)) A health maintenance organization ((~~shall~~)) must file ((~~with the notice required under subsection (2) of this section~~)) supporting documentation of its method of determining the rates charged((~~. The commissioner may request only~~)) for its individual agreements. At a minimum, the health maintenance organization must provide the following supporting documentation:

(a) A description of the health maintenance organization's rate-making methodology;

(b) An actuarially determined estimate of incurred claims which includes the experience data, assumptions, and justifications of the health maintenance organization's projection;

(c) The percentage of premium attributable in aggregate for nonclaims expenses used to determine the adjusted community rates charged; and

(d) A certification by a member of the American academy of actuaries, or other person approved by the commissioner, that the adjusted community rate charged can be reasonably expected to result in a loss ratio that meets or exceeds the loss ratio standard ((~~established in subsection (7) of this section~~)) of seventy-four percent, minus the premium tax rate applicable to the carrier's individual health benefit plans under RCW 48.14.0201.

(((~~(4) The commissioner may not disapprove or otherwise impede the implementation of the filed rates.~~

~~(5)~~)) (3) By the last day of May each year any health maintenance organization issuing or renewing individual health benefit plans in this state during the preceding calendar year shall file for review by the commissioner supporting documentation of its actual loss ratio and its actual declination rate for its individual health benefit plans offered or renewed in the state in aggregate

for the preceding calendar year. The filing shall include aggregate earned premiums, aggregate incurred claims, and a certification by a member of the American academy of actuaries, or other person approved by the commissioner, that the actual loss ratio has been calculated in accordance with accepted actuarial principles.

(a) At the expiration of a thirty-day period beginning with the date the filing is received by the commissioner, the filing shall be deemed approved unless prior thereto the commissioner contests the calculation of the actual loss ratio.

(b) If the commissioner contests the calculation of the actual loss ratio, the commissioner shall state in writing the grounds for contesting the calculation to the health maintenance organization.

(c) Any dispute regarding the calculation of the actual loss ratio shall, upon written demand of either the commissioner or the health maintenance organization, be submitted to hearing under chapters 48.04 and 34.05 RCW.

((~~(6)~~)) (4) If the actual loss ratio for the preceding calendar year is less than the loss ratio standard established in subsection ((~~(7)~~)) (5) of this section, a remittance is due and the following shall apply:

(a) The health maintenance organization shall calculate a percentage of premium to be remitted to the Washington state health insurance pool by subtracting the actual loss ratio for the preceding year from the loss ratio established in subsection ((~~(7)~~)) (5) of this section.

(b) The remittance to the Washington state health insurance pool is the percentage calculated in (a) of this subsection, multiplied by the premium earned from each enrollee in the previous calendar year. Interest shall be added to the remittance due at a five percent annual rate calculated from the end of the calendar year for which the remittance is due to the date the remittance is made.

(c) All remittances shall be aggregated and such amounts shall be remitted to the Washington state high risk pool to be used as directed by the pool board of directors.

(d) Any remittance required to be issued under this section shall be issued within thirty days after the actual loss ratio is deemed approved under subsection ((~~(5)~~)) (3)(a) of this section or the determination by an administrative law judge under subsection ((~~(5)~~)) (3)(c) of this section.

((~~(7)~~)) (5) The loss ratio applicable to this section shall be ((~~seventy-four percent~~)) the percentage set forth in the following schedule that correlates to the health maintenance organization's actual declination rate in the preceding year, minus the premium tax rate applicable to the health maintenance organization's individual health benefit plans under RCW 48.14.0201.

Actual Declination Rate	Loss Ratio
Under Six Percent (6%)	Seventy-Four Percent (74%)
Six Percent (6%) or more (but less than Seven Percent)	Seventy-Five Percent (75%)
Seven Percent (7%) or more (but less than Eight Percent)	Seventy-Six Percent (76%)
Eight Percent (8%) or more	Seventy-Seven Percent (77%)

NEW SECTION. **Sec. 7.** The insurance commissioner's authority to review and disapprove rates for individual products, as established in sections 1 through 6 of this act, expires January 1, 2012.

NEW SECTION. **Sec. 8.** (1) The office of the insurance commissioner shall explore the feasibility of entering into a multistate health insurance plan compact for the purpose of providing affordable health insurance coverage for persons purchasing individual health coverage. The office of the insurance commissioner shall propose model state legislation that each participating state would enact prior to entering into the multistate health insurance plan compact. If federal legislation is necessary to permit the operation of the multistate health insurance plan, the office of the insurance commissioner shall identify needed changes in federal statutes and rules.

(2) The office of the insurance commissioner shall report the findings and recommendations of the feasibility study to the appropriate committees of the senate and house of representatives by December 1, 2008.

Passed by the Senate March 8, 2008.
Passed by the House February 29, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 304

[Second Substitute Senate Bill 5596]

CHIROPRACTIC SERVICES—FAIR PAYMENT

AN ACT Relating to fair payment for chiropractic services; amending RCW 41.05.017; adding new sections to chapter 48.43 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1)(a) A health carrier may not pay a chiropractor less for a service or procedure identified under a particular physical medicine and rehabilitation code or evaluation and management code, as listed in a nationally recognized services and procedures code book such as the American medical association current procedural terminology code book, than it pays any other type of provider licensed under Title 18 RCW for a service or procedure under the same code, except as provided in (b) of this subsection. A carrier may not circumvent this requirement by creating a chiropractor-specific code not listed in the nationally recognized code book otherwise used by the carrier for provider payment.

(b) This section does not affect a health carrier's:

(i) Implementation of a health care quality improvement program to promote cost-effective and clinically efficacious health care services, including but not limited to pay-for-performance payment methodologies and other programs fairly applied to all health care providers licensed under Title 18 RCW that are designed to promote evidence-based and research-based practices;

(ii) Health care provider contracting to comply with the network adequacy standards;

(iii) Authority to pay in-network providers differently than out-of-network providers; and

(iv) Authority to pay a chiropractor less than another provider for procedures or services under the same code based upon geographic differences in the cost of maintaining a practice.

(c) This section does not, and may not be construed to:

(i) Require the payment of provider billings that do not meet the definition of a clean claim as set forth in rules adopted by the commissioner;

(ii) Require any health plan to include coverage of any condition; or

(iii) Expand the scope of practice for any health care provider.

(2) This section applies only to payments made on or after January 1, 2009.

Sec. 2. RCW 41.05.017 and 2007 c 502 s 2 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, 70.02.900, section 1 of this act, and 48.43.083.

NEW SECTION.** ***Sec. 3.** ***A new section is added to chapter 48.43 RCW to read as follows:

(1) On or after January 1, 2010, the commissioner shall contract for an evaluation of the impact of section 1 of this act on the utilization and cost of health care services associated with physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes, and on the total cost of episodes of care for treatment associated with the use of these payment or billing codes.

(2) The commissioner shall require carriers to provide to the contractor such data as the contractor determines is necessary to complete the evaluation under subsection (1) of this section. Data may include, but need not be limited to, the following:

(a) Data on the utilization of physical medicine and rehabilitation services and evaluation and management services associated with payment or billing codes for those services;

(b) Data related to changes in the distribution or mix of health care providers providing services under physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes;

(c) Data related to trends in carrier expenditures for services associated with physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes; and

(d) Data related to trends in carrier expenditures for the total cost of health plan enrollee care for treatment of the presenting health problems associated with the use of physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes.

(3) Data, information, and documents provided by the carrier pursuant to this section are exempt from public inspection and copying under chapter 42.56 RCW.

(4) The commissioner shall submit the evaluation required in subsection (1) of this section to the appropriate committees of the senate and house of representatives by January 1, 2012.

***Sec. 3 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 4.** This act expires June 30, 2013.

Passed by the Senate March 12, 2008.
Passed by the House March 12, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 3, Second Substitute Senate Bill 5596 entitled:

"AN ACT Relating to fair payment for chiropractic services."

This bill provides that a health insurance carrier may not pay a chiropractor less for a given service or procedure than it pays any other provider for that service or procedure.

Section 3 directs the Insurance Commissioner after January 1, 2010 to contract for an evaluation of the impact of Section 1 on the utilization and cost of health care services, and requires carriers to provide any data necessary to complete the evaluation. The evaluation is due to the Legislature by January, 2012. Since it was not otherwise funded, the study will be paid for through the administrative assessment levied on carriers by the Office of the Insurance Commissioner. This is a significant administrative burden on carriers with little benefit.

For these reasons, I have vetoed Section 3 of Second Substitute Senate Bill 5596.

With the exception of Section 3, Second Substitute Senate Bill 5596 is approved."

CHAPTER 305

[Engrossed Senate Bill 5751]

WINE AND BEER—TASTING

AN ACT Relating to wine and beer tasting; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The liquor control board shall establish a pilot project to allow beer and wine tasting in grocery stores licensed under RCW 66.24.360.

(a) The pilot project shall consist of thirty locations with at least six tastings to be conducted at each location between October 1, 2008, and September 30, 2009. However, no licensee may hold more than one tasting per month during the project period.

(b) The pilot project locations shall be determined by the board and must be equally allocated between independently owned grocery stores and national chain grocery stores.

(c) Licensees chosen to participate in the pilot project must meet the following criteria:

(i) Their primary activity is the retail sale of grocery products for off-premises consumption; and

(ii) They operate a fully enclosed retail area encompassing at least nine thousand square feet.

(d) Tasting activities of licensees under this section are subject to RCW 66.28.010 and 66.28.040 and the cost of sampling may not be borne, directly or indirectly, by any liquor manufacturer, importer, or distributor.

(e) A "tasting" may be conducted under the following conditions:

(i) Each sample must be two ounces or less, up to a total of four ounces, per customer;

(ii) No more than one sample of any single brand and type of beer or wine may be provided to a customer during any one visit to the premises; and

(iii) The licensee must have food available for the tasting participants.

(f) The service area and facilities must be located within the licensee's fully enclosed retail area, and must be of a size and design such that the licensee can observe and control persons in the area to ensure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol. Customers must remain in the service area while consuming samples.

(g) The licensee may only advertise the tasting event within the store.

(h) The board may prohibit tasting at a pilot project location that is within the boundaries of an alcohol impact area recognized by resolution of the board if the board finds that the tasting activities at the location are having an adverse effect on the reduction of chronic public inebriation in the area.

(i) All other criteria needed to establish and monitor the pilot project shall be determined by the board.

(j) The board shall report on the pilot project to the appropriate committees of the legislature by December 1, 2009.

(2) The liquor control board shall adopt rules to implement this section. The rules must include a requirement that employees of licensees under RCW 66.24.360 and 66.24.371 who are involved in tasting activities complete a board-approved limited alcohol server training program that addresses only those subjects reasonably related to the licensees' tasting activities.

NEW SECTION. **Sec. 2.** This act expires December 1, 2009.

Passed by the Senate March 10, 2008.
Passed by the House March 7, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 306

[Engrossed Senate Bill 5927]

PUBLIC RECORDS ACT—EXEMPTIONS—INTERNAL CONTROL DOCUMENTS

AN ACT Relating to exempting certain internal control documents from disclosure under the public records act; reenacting and amending RCW 42.56.270; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.56.270 and 2007 c 470 s 2, 2007 c 251 s 13, and 2007 c 197 s 4 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters ((~~15.110~~)) 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) ((~~and 43.330.080(4)~~)); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information; and

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business.

NEW SECTION. **Sec. 2.** Section 1 of this act takes effect June 30, 2008.

Passed by the Senate February 14, 2008.
Passed by the House March 7, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 307

[Engrossed Second Substitute Senate Bill 6111]

TIDAL AND WAVE ENERGY

AN ACT Relating to generating electricity from tidal and wave energy; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating new sections; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that the global energy economy is undergoing significant changes creating a situation where energy prices are increasingly more expensive and the sources of energy increasingly less secure. Additionally, the legislature finds that there is growing concern about the consequences associated with greenhouse gas emissions from conventional sources of energy and the need for action to address the threats of climate change. The legislature finds ocean and tidal resources, as well as other forms of hydrokinetic energy, will play an important role in providing clean, carbon-free, reliable, and affordable energy to the citizens of Washington. The legislature finds that the development of wave and tidal energy technologies in Washington will create more highly valued green jobs in the state.

(2) It is the intent of the legislature to facilitate the development of clean, carbon-free, reliable, and affordable power sources for the energy needs of Washington's growing economy. Also, it is the intent of the legislature to help catalyze the emergence of a new water-power industry that is able to export technology and expertise to the rest of the country and the world. In addition, the legislature finds that hydrokinetic energy technologies are in their infancy and care must be taken to properly design and site these facilities in order to avoid impacts on the marine environment. To achieve these goals, the legislature intends to establish a public-private organization that will support a sustainable approach to hydrokinetic energy development aimed at economic development, environmental protection, and community stability.

(3)(a) It is the intent of the legislature for state agencies to explore a streamlined approach to environmental permit decision making for wave and tidal power projects.

(b) To optimize the development and siting process for wave and tidal power systems and to provide environmental protection, the legislature finds that state regulatory and natural resource agencies, public and private sector interests, tribes, local and regional governments, and applicable federal agencies must work cooperatively to establish common goals, minimize project siting delays, develop consistency in the application of environmental standards, and eliminate duplicative processes through assigned responsibilities of selected permit drafting and compliance activities between state agencies.

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

(1) "Center" means the Washington state center for excellence in hydrokinetic energy.

(2) "Council" means the energy facility site evaluation council.

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

(4) "Hydrokinetic energy" means hydroelectric generation from ocean waves, tides, and currents, from free-flowing rivers and streams, and from water discharges.

(5) "Water discharges" means water discharges from agricultural, industrial, and commercial operations, wastewater treatment plants, or residential properties.

NEW SECTION. **Sec. 3.** The department and the council shall convene and cochair a work group to develop the Washington state center for excellence in hydrokinetic energy and to explore mechanisms to streamline and make more efficient current permitting processes for wave and tidal power projects.

NEW SECTION. **Sec. 4.** (1) The work group created under section 3 of this act consists of, but is not limited to, representatives from:

(a) The department of natural resources;

(b) The department of ecology;

(c) The department of fish and wildlife;

(d) The utilities and transportation commission;

(e) A wave energy company or tidal energy company, or both;

(f) A wave energy industry association or tidal energy industry association, or both;

(g) Either a state or private university researching wave energy or a state or private university researching tidal energy, or both;

(h) The Northwest Indian fisheries commission;

(i) An electrical utility;

(j) A local government;

(k) A commercial fishing association;

(l) A conservation group with expertise in energy-related issues;

(m) A conservation group with expertise in marine ecology; and

(n) A marine recreation group.

(2) State agencies under subsection (1) of this section that are members of the council under RCW 80.50.030 shall provide their existing designee members to serve on the work group in carrying out the responsibilities of this act.

***NEW SECTION.** Sec. 5. (1) In developing the center, the work group created in section 3 of this act shall ensure that the center is a public-private entity and that the center supports a sustainable approach to hydrokinetic energy development aimed at economic development, environmental protection, and community stability.*

(2) The work group created in section 3 of this act shall make recommendations to the legislature to include, but not be limited to, the following:

(a) How the center will conduct and support research and demonstrations of wave and tidal energy technologies in order to facilitate the deployment and commercialization of these technologies in Washington;

(b) How the center will establish and operate wave and tidal energy test ranges that allow developers to demonstrate their wave and tidal energy technologies;

(c) How the center will maintain processes to assist developers in permitting their wave and tidal energy technologies;

(d) How the center will collect, manage, and disseminate data necessary to assess statewide wave and tidal resources;

(e) How the center will promote Washington as the optimal location for the development of and deployment of wave and tidal energy technologies;

(f) What the public-private governance structure of the center will be, considering the life sciences discovery fund as a model;

(g) How the center will coordinate with other governmental wave and tidal institutions and initiatives in the Pacific Northwest economic region;

(h) How the center will be funded through either state, federal, or private sources of funding, or a combination of these funding sources;

(i) How the center will assist the state and various other entities in reducing greenhouse gas emissions;

(j) How the center will assist other forms of hydrokinetic energy technologies in addition to wave and tidal energy;

(k) How the center will identify and develop protocols to manage issues involving competing uses of water space; and

(l) What types of review and data are necessary to ensure that hydrokinetic energy will be designed and sited so as to avoid negative impacts on marine ecosystems.

***Sec. 5 was vetoed. See message at end of chapter.**

****NEW SECTION. Sec. 6. The work group created in section 3 of this act shall provide a report to the appropriate committees of the legislature containing its recommendations under section 5 of this act, as well as draft legislation implementing its recommendations, by December 1, 2008.***

***Sec. 6 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 7.** (1)(a) The work group created in section 3 of this act shall explore mechanisms to streamline and make more efficient permitting processes for wave and tidal power projects. The work group may recommend development of a permit process which allows for concurrent public review, consolidated appeals, and other mechanisms which result in permit process efficiency. In making these recommendations, the work group will ensure that there is adequate environmental review of the full range of potential impacts from this technology and that meaningful public involvement opportunities are preserved. The work group shall also identify and make recommendations of any potential barriers to the streamlining.

(b) The work group shall consider and make recommendations regarding research relating to the marine environment. In making the recommendations, the work group shall consider how future marine research would add value to the existing understanding of the overall marine environment and provide guidance on future research with the goal of eliminating redundant research activities.

(2) The work group created in section 3 of this act, in developing recommendations for permit streamlining, shall consider additional issues that may be associated with permitting a wave or tidal energy project, which include, but are not limited to:

(a) Disturbance or destruction of marine life, including acoustic impacts;

(b) Toxic releases from leaks or accidental spills of liquids used in those systems with working hydraulic fluids;

(c) Possible threat to navigation from collisions;

(d) Interference of mooring and anchorage lines with commercial and sport fishing;

(e) Tidal power plants that dam estuaries that can impede sea life migration and build up silt behind such facilities, impacting local ecosystems; and

(f) Potential impacts of tidal power on tides, currents, and flushing.

(3) By June 30, 2009, the work group created in section 3 of this act shall develop a work plan that details critical issues that need to be resolved to develop efficient, streamlined permitting processes for wave and tidal power projects. The work group shall provide the work plan to the legislature for review every six months. If the work group determines that additional time is required to develop recommendations for the permitting process for wave power projects, the work group shall report to the legislature on the need for additional time and update the work plan accordingly.

(4) By June 30, 2010, the work group created in section 3 of this act shall provide a final report to the legislature on its findings and recommendations.

***NEW SECTION.** Sec. 8. A new section is added to chapter 82.08 RCW to read as follows:*

(1) The tax levied by RCW 82.08.020 does not apply to sales of machinery and equipment used directly in generating tidal or wave energy, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating at least two hundred kilowatts of electricity and provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(2) For purposes of this section and section 9 of this act:

(a) "Machinery and equipment" has the same meaning as provided in RCW 82.08.02567.

(b) Machinery and equipment is "used directly" in generating electricity with tidal or wave energy if it provides any part of the process that captures the energy of the tidal or wave energy.

(3) This section expires June 30, 2018.

***Sec. 8 was vetoed. See message at end of chapter.**

***NEW SECTION.** Sec. 9. A new section is added to chapter 82.12 RCW to read as follows:*

(1) The provisions of this chapter do not apply with respect to machinery and equipment used directly in generating at least two hundred kilowatts of electricity using tidal or wave energy as the principal source of power, or to the use of labor and services rendered in respect to installing such machinery and equipment.

(2) The definitions in section 8 of this act apply to this section.

(3) This section expires June 30, 2018.

***Sec. 9 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act expire January 1, 2011.

***NEW SECTION. Sec. 11. If specific funding for the purposes of sections 1 through 7 of this act, referencing sections 1 through 7 of this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, sections 1 through 7 of this act are null and void.**

***Sec. 11 was vetoed. See message at end of chapter.**

Passed by the Senate March 8, 2008.
Passed by the House March 6, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 5, 6, 8, 9, and 11, Engrossed Second Substitute Senate Bill 6111 entitled:

"AN ACT Relating to generating electricity from tidal and wave energy."

Washington State is currently working with tidal and wave energy project proponents and federal agencies to identify what will need to take place to specify potential environmental impacts and Engrossed Second Substitute Senate Bill 6111 establishes a workgroup to further this inquiry.

Sections 5 and 6 require that a public-private entity be created to support hydrokinetic energy development, and that a report to the Legislature be submitted in December 2008. I believe that this work is premature until we understand the potential impact on Puget Sound and our ocean resources.

Sections 8 and 9 exempt machinery and equipment used in generating tidal or wave energy from state and local retail sales and use taxes and public utility taxes. Such tax exemptions are more appropriately considered once commercial production of tidal turbines is viable.

Section 11 is a null and void clause which, due to the veto of Sections 5 and 6, is unnecessary.

For these reasons, I have vetoed Sections 5, 6, 8, 9 and 11 of Engrossed Second Substitute Senate Bill 6111.

With the exception of Sections 5, 6, 8, 9, and 11, Engrossed Second Substitute Senate Bill 6111 is approved."

CHAPTER 308

[Substitute Senate Bill 6181]

COUNTY CANVASSING BOARD—MEMBERSHIP

AN ACT Relating to county canvassing board membership; and amending RCW 29A.60.140.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 29A.60.140 and 2005 c 274 s 250 are each amended to read as follows:

(1) Members of the county canvassing board are the county auditor, who is the chair, the county prosecuting attorney, and the chair of the county legislative body. If a member of the board is not available to carry out the duties of the board, then the auditor may designate a deputy auditor, the prosecutor may designate a deputy prosecuting attorney, and the chair of the county legislative body may designate another member of the county legislative body or, in a county with a population over one million, an employee of the legislative body

who reports directly to the chair. An "employee of the legislative body" means an individual who serves in any of the following positions: Chief of staff; legal counsel; clerk of the council; policy staff director; and any successor positions to these positions should these original positions be changed. Any such designation may be made on an election-by-election basis or may be on a permanent basis until revoked by the designating authority. Any such designation must be in writing, and if for a specific election, must be filed with the county auditor not later than the day before the first day duties are to be undertaken by the canvassing board. If the designation is permanent until revoked by the designating authority, then the designation must be on file in the county auditor's office no later than the day before the first day the designee is to undertake the duties of the canvassing board. Members of the county canvassing board designated by the county auditor, county prosecuting attorney, or chair of the county legislative body shall complete training as provided in RCW 29A.04.540 and shall take an oath of office similar to that taken by county auditors and deputy auditors in the performance of their duties.

(2) The county canvassing board may adopt rules that delegate in writing to the county auditor or the county auditor's staff the performance of any task assigned by law to the canvassing board.

(3) The county canvassing board may not delegate the responsibility of certifying the returns of a primary or election, of determining the validity of challenged ballots, or of determining the validity of provisional ballots referred to the board by the county auditor.

(4) The county canvassing board shall adopt administrative rules to facilitate and govern the canvassing process in that jurisdiction.

(5) Meetings of the county canvassing board are public meetings under chapter 42.30 RCW. All rules adopted by the county canvassing board must be adopted in a public meeting under chapter 42.30 RCW, and once adopted must be available to the public to review and copy under chapter 42.56 RCW.

Passed by the Senate February 18, 2008.

Passed by the House March 5, 2008.

Approved by the Governor April 1, 2008.

Filed in Office of Secretary of State April 2, 2008.

CHAPTER 309

[Substitute Senate Bill 6297]

PROSECUTING ATTORNEYS—ELECTED—SALARIES

AN ACT Relating to elected prosecuting attorney salaries; amending RCW 36.17.020; creating new sections; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that an elected county prosecuting attorney functions as both a state officer in pursuing criminal cases on behalf of the state of Washington, and as a county officer who acts as civil counsel for the county, and provides services to school districts and lesser taxing districts by statute.

The elected prosecuting attorney's dual role as a state officer and a county officer is reflected in various provisions of the state Constitution and within state statute.

The legislature finds that the responsibilities and decisions required of the elected prosecuting attorney are essentially the same in every county within Washington state, from a decision to seek the death penalty in an aggravated murder case, to the decision not to prosecute but refer an offender to drug court; from a decision to pursue child rape charges based solely upon the testimony of the child, to a decision to divert juvenile offenders out of the justice system. Therefore, the legislature finds that elected prosecuting attorneys need to exercise the same level of skill and expertise in the least populous county as in the most populous county.

The legislature finds that the salary of the elected county prosecuting attorney should be tied to that of a superior court judge. This furthers the state's interests and responsibilities under the state Constitution, and is consistent with the current practice of several counties in Washington state, the practices of several other states, and the national district attorneys' association national standards.

Sec. 2. RCW 36.17.020 and 2001 c 73 s 3 are each amended to read as follows:

The county legislative authority of each county or a county commissioner or councilmember salary commission which conforms with RCW 36.17.024 is authorized to establish the salaries of the elected officials of the county. ((~~One-half of the salary of each prosecuting attorney shall be paid by the state.~~)) The state and county shall contribute to the costs of the salary of the elected prosecuting attorney as set forth in subsection (11) of this section. The annual salary of a county elected official shall not be less than the following:

(1) In each county with a population of one million or more: Auditor, clerk, treasurer, sheriff, members of the county legislative authority, and coroner, eighteen thousand dollars; and assessor, nineteen thousand dollars((~~; and prosecuting attorney, thirty thousand three hundred dollars~~));

(2) In each county with a population of from two hundred ten thousand to less than one million: Auditor, seventeen thousand six hundred dollars; clerk, seventeen thousand six hundred dollars; treasurer, seventeen thousand six hundred dollars; sheriff, nineteen thousand five hundred dollars; assessor, seventeen thousand six hundred dollars; ((~~prosecuting attorney, twenty-four thousand eight hundred dollars;~~)) members of the county legislative authority, nineteen thousand five hundred dollars; and coroner, seventeen thousand six hundred dollars;

(3) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand: Auditor, sixteen thousand dollars; clerk, sixteen thousand dollars; treasurer, sixteen thousand dollars; sheriff, seventeen thousand six hundred dollars; assessor, sixteen thousand dollars; ((~~prosecuting attorney, twenty-four thousand eight hundred dollars;~~)) members of the county legislative authority, seventeen thousand six hundred dollars; and coroner, sixteen thousand dollars;

(4) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand: Auditor, fourteen thousand nine hundred dollars; clerk, fourteen thousand nine hundred dollars; treasurer, fourteen

thousand nine hundred dollars; assessor, fourteen thousand nine hundred dollars; sheriff, fourteen thousand nine hundred dollars; ((~~prosecuting attorney, twenty-three thousand seven hundred dollars;~~)) members of the county legislative authority, fourteen thousand nine hundred dollars; and coroner, fourteen thousand nine hundred dollars;

(5) In each county with a population of from forty thousand to less than seventy thousand: Auditor, thirteen thousand eight hundred dollars; clerk, thirteen thousand eight hundred dollars; treasurer, thirteen thousand eight hundred dollars; assessor, thirteen thousand eight hundred dollars; sheriff, thirteen thousand eight hundred dollars; ((~~prosecuting attorney, twenty-three thousand seven hundred dollars;~~)) members of the county legislative authority, thirteen thousand eight hundred dollars; and coroner, thirteen thousand eight hundred dollars;

(6) In each county with a population of from eighteen thousand to less than forty thousand: Auditor, twelve thousand one hundred dollars; clerk, twelve thousand one hundred dollars; treasurer, twelve thousand one hundred dollars; sheriff, twelve thousand one hundred dollars; assessor, twelve thousand one hundred dollars; ((~~prosecuting attorney in such a county in which there is no state university or college, fourteen thousand three hundred dollars; in such a county in which there is a state university or college, sixteen thousand five hundred dollars;~~)) and members of the county legislative authority, eleven thousand dollars;

(7) In each county with a population of from twelve thousand to less than eighteen thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; ((~~prosecuting attorney, thirteen thousand two hundred dollars;~~)) and members of the county legislative authority, nine thousand four hundred dollars;

(8) In each county with a population of from eight thousand to less than twelve thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; ((~~prosecuting attorney, nine thousand nine hundred dollars;~~)) and members of the county legislative authority, seven thousand dollars;

(9) In each county with a population of from five thousand to less than eight thousand: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; assessor, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; ((~~prosecuting attorney, nine thousand nine hundred dollars;~~)) and members of the county legislative authority, six thousand five hundred dollars;

(10) In each other county: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; assessor, nine thousand one hundred dollars; ((~~prosecuting attorney, nine thousand nine hundred dollars;~~)) and members of the county legislative authority, six thousand five hundred dollars;

(11) The state of Washington shall contribute an amount equal to one-half the salary of a superior court judge towards the salary of the elected prosecuting attorney. Upon receipt of the state contribution, a county shall continue to

contribute towards the salary of the elected prosecuting attorney in an amount that equals or exceeds that contributed by the county in 2008.

NEW SECTION. **Sec. 3.** This act takes effect July 1, 2008.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 10, 2008.
Passed by the House March 5, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 310

[Substitute Senate Bill 6317]

DEATH BENEFITS—FAILURE TO PAY—INTEREST

AN ACT Relating to the payment of interest upon failure to pay death benefits that are payable under the terms of a group life insurance policy; and adding a new section to chapter 48.24 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.24 RCW to read as follows:

(1) An insurer shall pay the proceeds of any benefits under a policy of group life insurance insuring the life of any person who was a resident of this state at the time of death. The proceeds must be paid not more than thirty days after the insurer has received satisfactory proof of death of the insured. If the proceeds are not paid within the thirty-day period, the insurer shall also pay interest on the proceeds from the date of death of the insured to the date when the proceeds are paid.

(2) The interest required under subsection (1) of this section accrues commencing on the date of death at the rate then paid by the insurer on other withdrawable policy proceeds left with the company or eight percent, whichever is greater.

(3) Benefits payable that have not been tendered to the beneficiary within ninety days of the receipt of proof of death accrue interest, commencing on the ninety-first day, at the rate under subsection (2) of this section plus three percent.

Passed by the Senate February 16, 2008.
Passed by the House March 7, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 311

[Engrossed Substitute Senate Bill 6333]

HEALTH CARE REFORM—CITIZENS' WORK GROUP

AN ACT Relating to the creation of a citizens' work group on health care reform; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that:

(1) In the past two decades, Washington state has implemented legislative initiatives to improve access to quality, affordable health care in the state. These initiatives, which placed Washington in the forefront of states addressing their residents' health care needs, include:

(a) The basic health plan providing affordable coverage to over one hundred thousand individuals and families below two hundred percent of the federal poverty level;

(b) The "cover all children" initiative, expanding publicly funded coverage to children in families under three hundred percent of the federal poverty level and promising to cover all children by 2010;

(c) The blue ribbon commission on health care costs and access resulting in the passage of Engrossed Second Substitute Senate Bill No. 5930, that, among other actions, directed state agencies to integrate prevention, chronic care management, and the medical home concept into state purchased health care programs;

(d) The movement toward evidence-based health care purchasing for state health care programs, including the prescription drug program and its preferred drug list, the health technology assessment program, the use of medical evidence to evaluate medical necessity under state medical assistance programs and the direction provided in Engrossed Second Substitute Senate Bill No. 5930 relating to aligning payment with evidence-based care; and

(e) The development of patient safety initiatives, including health care facility reporting of adverse medical events and hospital-acquired infection reporting.

(2) Despite these initiatives, the cost of health care has continued to increase at a disproportionately high rate.

(3) Affordability is key to accessing health care, as evidenced by the fact that more than half of the uninsured people in Washington state are in low-income families, and low-wage workers are far more likely to be uninsured than those with higher incomes. These increasing costs are placing quality care beyond the reach of a growing number of Washington citizens and contributing to health care expenditures that strain the resources of individuals, businesses, and public programs.

(4) Efforts by public and private purchasers to control expenditures, and the stress these efforts place on the stability of the health care workforce and viability of health care facilities, threaten to reduce access to quality care for all residents of the state.

(5) Prompt action is crucial to prevent further deterioration of the health and well-being of Washingtonians.

(6) Addressing an issue of this importance and magnitude demands the full engagement of concerned Washingtonians in a reasoned examination of options to improve access to quality, affordable health care.

NEW SECTION. **Sec. 2.** The Washington citizens' work group on health care reform is established.

(1) After January 30, 2009, the governor shall appoint nine citizen members, who may include, but are not limited to, representatives from business, labor, health care providers and consumer groups, and persons with expertise in health care financing. The citizen members shall be selected from individuals recognized for their independent judgment. In addition, the majority and

minority caucus in the house of representatives and the majority and minority caucus in the senate shall submit the names of two members of their caucus to the governor, who shall select one member from each caucus to participate in the work group.

(2) Staff support for the work group shall be provided by the office of financial management. Consistent with funds appropriated specifically for this purpose, two full-time staff shall be hired to enable the work group to complete its responsibilities in a timely and effective manner.

(3) The work group shall:

(a) Begin its deliberations by reviewing in detail the findings and recommendations of the 2006 blue ribbon commission on health care costs and access. The work group shall review all prior relevant studies related to health care reform efforts in Washington state and consider the recent health care reform experience of other states such as Massachusetts, Wisconsin, and California;

(b) Engage Washingtonians in a public process on improving access to quality, affordable health care, as described in subsection (4) of this section;

(c) Review and develop recommendations to the governor and the legislature related to the health care reform proposals in section 3 of this act. In reviewing the proposals, the work group shall evaluate the extent to which each proposal:

(i) Provides a medical home for every family;

(ii) Provides health care that Washington families can afford;

(iii) Promotes improved health outcomes, in part through a more efficient delivery system;

(iv) Requires that individuals, employers, and government share in financing the proposal; and

(v) Enables Washington families to choose their provider and health network, and have the option of retaining their current provider.

(d) Through the activities outlined in this act, develop a careful understanding of the essential requirements for health care reform as seen by the many different primary stakeholders in Washington state.

(4) The work group shall design the public engagement process with a goal of having structured, in-depth discussions related to:

(a) Trends or issues that affect affordability, access, quality, and efficiency in our health care system; and

(b) The health care proposals described in section 3 of this act, the principles guiding evaluation of the proposals, and the economic analysis of the proposals.

The public engagement process may include, but is not limited to, public forums, invitational meetings with community leaders or other interested individuals and organizations, and web-based communication.

(5) By November 1, 2009, the work group shall submit a final report to the public, the governor, and the legislature that includes a summary of the information received during the public engagement process, and a summary of the work group's conclusions, and recommendations related to its review of the proposals, including suggestions for the adoption of any health care proposal by the legislature. The work group may develop its own recommended proposal or proposals.

(6) The work group may seek other funds including private contributions and in-kind donations for activities described under this section.

This section expires December 31, 2009.

NEW SECTION. **Sec. 3.** (1) Consistent with funds appropriated specifically for this purpose, the legislature shall contract with an independent consultant with expertise in health economics and actuarial science to evaluate the following health care reform proposals:

(a) A proposal that modifies insurance regulations in Washington state to address specific groups that have lower rates of coverage, such as small employers and young adults. The proposal would authorize the offering of health plans that do not include mandated benefits, allow health plan premiums to be adjusted to reflect the health status and experience of the members of the group purchasing coverage, allow carriers to pool the health risk of young adults separately from other enrollees, and promote the use of high deductible health plans with accompanying health savings accounts;

(b) A proposal that includes the components of health care reform legislation enacted in Massachusetts in 2006 as Chapter 58 of the Acts of 2006 - "An Act Providing Access to Affordable, Quality, Accountable Health Care." The proposal assumes the inclusion of health plan design features that encourage the use of preventive, primary care and evidence-based services;

(c) A proposal to cover all Washingtonians with a comprehensive, standardized benefit package. An independent entity would be established to define the scope of the standardized benefit package, and to undertake a competitive procurement process to offer the package through private health carriers or health care provider networks, with an additional fee-for-service option. The standardized benefit package would be designed to include features that encourage the use of preventive, primary care and evidence-based health services. Washingtonians would purchase the standardized benefit package through the independent entity by choosing a participating carrier, network, or the fee-for-service option; and

(d) A proposal to establish a single payer health care system, similar to the health care system in Canada in which a governmental entity contracts with and pays health care providers to deliver a defined package of health services to all Washingtonians.

(2) In addition to the evaluation of the four proposals described in subsection (1) of this section, the consultant shall conduct a review to validate the actuarial analysis of the insurance commissioner's proposed guaranteed benefit plan prepared in 2008 at the request of the insurance commissioner.

(3) Each evaluation shall address the impact of implementation of the proposal on:

(a) The number of Washingtonians covered and number remaining uninsured;

(b) The scope of coverage available to persons covered under the proposal;

(c) The impact on affordability of health care to individuals, businesses, and government;

(d) The redistribution of amounts currently spent by individuals, businesses, and government on health, as well as any savings;

(e) The cost of health care as experienced throughout the state by individuals and families, employees of small and large businesses, businesses of

all sizes, associations, local governments, public health districts, and by the state;

(f) The impact on employment;

(g) The impact on consumer choice;

(h) Administrative efficiencies and resulting savings;

(i) The impact on hospital charity care; and

(j) The extent to which each proposal promotes:

(i) Improved health outcomes;

(ii) Prevention and early intervention;

(iii) Chronic care management;

(iv) Services based on empirical evidence;

(v) Incentives to use effective and necessary services;

(vi) Disincentives to discourage use of marginally effective or inappropriate services; and

(vii) A medical home.

(4) To the extent that any proposal has recent, detailed analysis available, the consultant shall review and may make use of the available analysis.

(5) The results of the evaluation under this section shall be submitted to the governor, the health policy committees of the legislature, and the work group on or before December 15, 2008.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 10, 2008.
Passed by the House March 7, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 312

[Substitute Senate Bill 6339]

TRAFFICKING—VICTIMS—ADDRESS CONFIDENTIALITY

AN ACT Relating to address confidentiality of victims of trafficking; and amending RCW 40.24.010, 40.24.020, 40.24.030, and 40.24.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 40.24.010 and 2001 c 28 s 1 are each amended to read as follows:

The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, trafficking, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, trafficking, or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, trafficking, or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address.

Sec. 2. RCW 40.24.020 and 1991 c 23 s 2 are each amended to read as follows:

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

(1) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(2) "Program participant" means a person certified as a program participant under RCW 40.24.030.

(3) "Domestic violence" means an act as defined in RCW 10.99.020 and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(4) "Trafficking" means an act as defined in RCW 9A.40.100 or an act recognized as a severe form of trafficking under 22 U.S.C. Sec. 7102(8) as it existed on the effective date of this subsection, or such subsequent date as may be provided by the secretary of state by rule, consistent with the purposes of this subsection, regardless of whether the act has been reported to law enforcement.

Sec. 3. RCW 40.24.030 and 2001 c 28 s 2 are each amended to read as follows:

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(a) A sworn statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, trafficking, or stalking; and (ii) that the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made;

(b) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(c) The mailing address where the applicant can be contacted by the secretary of state, and the phone number or numbers where the applicant can be called by the secretary of state;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, trafficking, or stalking;

(e) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or

invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under RCW 40.16.030 or other applicable statutes.

Sec. 4. RCW 40.24.080 and 2001 c 28 s 3 are each amended to read as follows:

The secretary of state shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence, sexual assault, trafficking, or stalking to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the secretary of state or its designees to applicants shall in no way be construed as legal advice.

Passed by the Senate March 10, 2008.
Passed by the House March 4, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 313

[Engrossed Substitute Senate Bill 6442]

OFFICE OF PUBLIC DEFENSE

AN ACT Relating to the office of public defense; amending RCW 2.70.005, 2.70.010, 2.70.020, and 2.70.030; creating a new section; and repealing RCW 43.131.389 and 43.131.390.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that the office of public defense:

(a) Operates in an efficient and economical manner, with adequate cost controls in place;

(b) Meets established goals and targets; and

(c) Does not substantially duplicate services offered by other agencies or the private sector.

(2) Termination of the office of public defense would have substantial and wide-reaching ramifications on the court system in Washington state. The right to counsel is a constitutional right, and provision of counsel for indigent defendants is a government responsibility.

Sec. 2. RCW 2.70.005 and 1996 c 221 s 1 are each amended to read as follows:

In order to implement the constitutional and statutory guarantees of counsel and to ensure ((~~the~~)) effective and efficient delivery of ((~~the~~)) indigent ((~~appellate~~)) defense services funded by the state of Washington, an office of public defense is established as an independent agency of the judicial branch.

Sec. 3. RCW 2.70.010 and 1996 c 221 s 2 are each amended to read as follows:

The supreme court shall appoint the director of the office of public defense from a list of three names submitted by the advisory committee created under RCW 2.70.030. Qualifications shall include admission to the practice of law in this state for at least five years, experience in ((~~the representation of persons accused of a crime~~)) providing indigent defense services, and proven managerial or supervisory experience. The director shall serve at the pleasure of the supreme court and receive a salary to be fixed by the advisory committee.

Sec. 4. RCW 2.70.020 and 1996 c 221 s 3 are each amended to read as follows:

The director((~~, under the supervision and direction of the advisory committee,~~)) shall:

(1) Administer all ((~~criminal appellate indigent defense~~)) state-funded services in the following program areas:

(a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;

(b) Appellate indigent defense, as provided in this chapter;

(c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;

(d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;

(e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;

(2) Submit a biennial budget for all costs related to ((~~state appellate indigent defense~~)) the office's program areas;

(3) Establish administrative procedures, standards, and guidelines for the office's program areas, including ((~~a~~)) cost-efficient systems that provide((~~s~~)) for authorized recovery of costs;

(4) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

(5) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;

(((~~(5)~~))) (6) Collect information regarding ((~~indigency cases~~)) indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

(((~~(6)~~))) (7) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided.

The office of public defense shall not provide direct representation of clients.

Sec. 5. RCW 2.70.030 and 2005 c 111 s 1 are each amended to read as follows:

(1) There is created an advisory committee consisting of the following members:

(a) Three persons appointed by the chief justice of the supreme court, ((~~including the chair of the appellate indigent defense commission identified in subsection (3) of this section~~)) who shall also appoint the chair of the committee;

(b) Two nonattorneys appointed by the governor;

(c) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(d) One person appointed by the court of appeals executive committee;

(e) One person appointed by the Washington state bar association;

(f) One person appointed by the Washington state association of counties; and

(g) One person appointed by the association of Washington cities.

(2) During the term of his or her appointment, no appointee may: (a) Provide indigent defense services funded by a city, a county, or the state, except on a pro bono basis; (b) serve as ((~~an appellate~~)) a judge except on a pro tem basis or as ((~~an appellate~~)) a court employee; or (c) serve as a prosecutor or prosecutor employee.

(3) ((~~The initial advisory committee shall be comprised of the current members of the appellate indigent defense commission, as established by Supreme Court Order No. 25700-B, dated March 9, 1995, plus two additional legislator members appointed under subsection (1)(c) of this section. Members shall serve until the termination of their current terms, and may be reappointed. The two additional legislator members, who are not on the appellate indigent defense commission, shall each serve three-year terms.~~)) Members of the advisory committee shall receive no compensation for their services as members of the ((~~commission~~)) committee, but may be reimbursed for travel and other expenses in accordance with ((~~rules adopted by the office of financial management~~)) state law.

(4) The advisory committee shall:

(a) Meet at least quarterly;

(b) Review at least biennially the performance of the director, and submit each review to the chief justice of the supreme court;

(c) Receive reports from the director;

(d) Make policy recommendations, as appropriate, to the legislature and the supreme court;

(e) Approve the office's budget requests;

(f) Advise the director regarding administration and oversight of the office's program areas; and

(g) Carry out other duties as authorized or required by law.

NEW SECTION. **Sec. 6.** The following acts or parts of acts are each repealed:

(1) RCW 43.131.389 (Office of public defense—Termination) and 1998 c 108 s 2 & 1996 c 221 s 7; and

(2) RCW 43.131.390 (Office of public defense—Repeal) and 1998 c 108 s 3 & 1996 c 221 s 8.

Passed by the Senate March 10, 2008.

Passed by the House March 5, 2008.

Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 314

[Second Substitute Senate Bill 6468]

HONEY BEEKEEPERS—TAXATION

AN ACT Relating to the taxation of honey beekeepers; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that recent occurrences of colony collapse disorder and the resulting loss of bee hives will have an economic impact on the state's agricultural sector. The legislature intends to provide temporary business and occupation tax relief for Washington's apiarists.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts derived from the wholesale sale of honey bee products by an eligible apiarist who owns or keeps bee colonies and who does not qualify for an exemption under RCW 82.04.330 in respect to such sales.

(2) The exemption provided in subsection (1) of this section does not apply to any person selling such products at retail or to any person selling manufactured substances or articles.

(3) The definitions in this subsection apply to this section.

(a) "Bee colony" means a natural group of honey bees containing seven thousand or more workers and one or more queens, housed in a man-made hive with movable frames, and operated as a beekeeping unit.

(b) "Eligible apiarist" means a person who owns or keeps one or more bee colonies and who grows, raises, or produces honey bee products for sale at wholesale and is registered under RCW 15.60.021.

(c) "Honey bee products" means queen honey bees, packaged honey bees, honey, pollen, bees wax, propolis, or other substances obtained from honey bees. "Honey bee products" does not include manufactured substances or articles.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by an eligible apiarist, as defined in section 2 of this act, for providing bee pollination services to a farmer using a bee colony owned or kept by the person providing the pollination services.

(2) The definitions in RCW 82.04.213 apply to this section.

NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 does not apply to the sale of honey bees to an eligible apiarist, as defined in section 2 of this act. This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply in respect to the use of honey bees by an eligible apiarist, as defined in section 2 of this act. This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

NEW SECTION. **Sec. 6.** This act takes effect July 1, 2008.

NEW SECTION. **Sec. 7.** This act expires July 1, 2013.

Passed by the Senate March 10, 2008.
Passed by the House March 6, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 315

[Substitute Senate Bill 6510]

SMALL MANUFACTURERS—INNOVATION AND MODERNIZATION—FUNDING

AN ACT Relating to providing a source of funding to assist small manufacturers in obtaining innovation and modernization services; adding new sections to chapter 43.131 RCW; adding a new chapter to Title 43 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that a viable manufacturing industry is critical to providing the state economy with family-wage jobs and improving the quality of life for workers and communities. To perform in the emerging global marketplace, Washington manufacturers must master new technologies, streamline production processes, improve quality assurance, expand environmental compliance, and enhance methods of work organization. Only through innovation and modernization techniques, reflecting the specific needs and capabilities of the individual firms, can Washington manufacturers both compete successfully in the market of the future and pay good living wages.

Most small and midsize manufacturers do not have the resources that will allow them to easily access innovation and modernization technical assistance and the skills training needed to make them globally competitive. Because of the statewide public benefit to be gained from increasing the availability of innovation and modernization services, it is the intent of the legislature to create a new mechanism in a manner that reduces the up-front costs of these services for small and midsize manufacturing firms. It is further the intent of the legislature that Washington state increase its support for the federal manufacturing extension partnership program, to expand the delivery of innovation and modernization services to small and midsize Washington manufacturers, and to leverage federal funding and private resources devoted to such efforts.

The successful implementation of innovation and modernization services will enable a manufacturing firm to reduce costs, increase sales, become more profitable, and ultimately expand job opportunities for Washington citizens. Such growth will result in increased revenue from the state business and occupation taxes paid by manufacturers who have engaged in innovation and modernization services.

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

(1) "Costs of extension services" and "extension service costs" mean the direct costs experienced under a contract with a qualified manufacturing extension partnership affiliate for modernization extension services, including but not limited to amounts in the contract for costs of consulting, instruction, materials, equipment, rental of class space, marketing, and overhead.

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

(3) "Director" means the director of the department of community, trade, and economic development.

(4) "Innovation and modernization extension voucher" and "voucher" mean an instrument issued to a successful applicant from the department, verifying that funds from the manufacturing innovation and modernization account will be forwarded to the qualified manufacturing extension partnership affiliate selected by the participant and will cover identified costs of extension services.

(5) "Innovation and modernization extension services" and "service" mean a service funded under this chapter and performed by a qualified manufacturing extension partnership affiliate. The services may include but are not limited to strategic planning, continuous improvement, business development, six sigma, quality improvement, environmental health and safety, lean processes, energy management, innovation and product development, human resources and training, supply chain management, and project management.

(6) "Outreach services" means those activities performed by an affiliate to either assess the technical assistance needs of Washington manufacturers or increase manufacturers' awareness of the opportunities and benefits of implementing cutting edge technology, techniques, and best practices. "Outreach services" includes but is not limited to salaries of outreach staff, needs assessments, client follow-up, public educational events, manufacturing orientated trade shows, electronic communications, newsletters, advertising, direct mail efforts, and contacting business organizations for names of manufacturers who might need assistance.

(7) "Program" means the Washington manufacturing innovation and modernization extension service program created in section 3 of this act.

(8) "Program participant" and "participant" mean an applicant for assistance under the program that has received a voucher or a small manufacturer receiving services through an industry association or cluster association that has received a voucher.

(9) "Qualified manufacturing extension partnership affiliate" and "affiliate" mean a private nonprofit organization established under RCW 24.50.010 or other organization that is eligible or certified to receive federal matching funds from the national institute of standards and technology manufacturing extension partnership program of the United States department of commerce.

(10) "Small manufacturer" means a private employer whose primary business is adding value to a product through a manufacturing process and employs one hundred or fewer employees within Washington state.

NEW SECTION. **Sec. 3.** (1) The Washington manufacturing innovation and modernization extension service program is created to provide assistance to

small manufacturers located in the state of Washington. The program shall be administered by the department.

(2)(a) Application to receive assistance under this program must be made to the department in a form and manner specified by the department. Successful applicants will receive an innovation and modernization extension voucher from the department to cover the costs of extension services performed by a qualified manufacturing extension partnership affiliate. An applicant may not receive a voucher or vouchers of over two hundred thousand dollars per calendar year. The department shall only allocate up to sixty percent of available funding during the first year of a biennium.

(b) Applicants must:

(i) Have a valid agreement with a qualified manufacturing extension partnership affiliate to engage in innovation and modernization extension services;

(ii) Agree to: (A) Make a contribution to the manufacturing innovation and modernization account created in section 5 of this act, in an amount equal to twenty-five percent of the amount of the innovation and modernization extension voucher, upon completion of the innovation and modernization extension service; and (B) make monthly or quarterly contributions over the subsequent eighteen months, as specified in their agreement with the affiliate, to the manufacturing innovation and modernization account created in section 5 of this act in an amount equal to eighty percent of the amount of the innovation and modernization extension voucher;

(iii) Be a small manufacturer or an industry association or cluster association at the time the applicant entered into an agreement with a qualified manufacturing extension partnership affiliate; and

(iv) If a small manufacturer, ensure that the number of employees the applicant has in the state during the calendar year following the completion of the program will be equal to or greater than the number of employees the applicant had in the state in the calendar year preceding the start of the program.

(3) The director may solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, federal, or other governmental entities, as well as private sources, for the purpose of providing funding for the innovation and modernization extension services and outreach services specified in this chapter. All revenue solicited and received by the department pursuant to this subsection must be deposited into the manufacturing innovation and modernization account created in section 5 of this act.

(4) The department may adopt rules to implement this section.

(5) Any qualified manufacturing extension partnership affiliate receiving funding under this program is required to submit a copy of its annual independent federal audit to the department within three months of its issuance.

NEW SECTION. **Sec. 4.** This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter shall be controlling.

NEW SECTION. **Sec. 5.** (1) The manufacturing innovation and modernization account is created in the state treasury. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only for funding activities of the Washington manufacturing innovation and modernization extension services program created in section 3 of this act.

(3) All payments by a program participant in the Washington manufacturing innovation and modernization extension services program created in section 3 of this act shall be deposited into the manufacturing innovation and modernization account. Of the total payments deposited into the account by program participants, the department may use up to three percent for administration of this program. The deposit of payments under this section from a program participant cease when the department specifies that the program participant has met the monetary contribution obligations of the program.

(4) All revenue solicited and received under the provisions of section 3(3) of this act shall be deposited into the manufacturing innovation and modernization account.

(5) The legislature intends that all payments from the manufacturing innovation and modernization account made to qualified manufacturing extension partnership affiliates will be eligible as the state match in an affiliate's application for federal matching funds under the manufacturing extension partnership program of the United States department of commerce's national institute of standards and technology.

NEW SECTION. **Sec. 6.** Any qualified manufacturing extension partnership affiliate receiving funding under the program shall collect and submit to the department annually data on the number of clients served, the scope of services provided, and outcomes achieved during the previous calendar year. The department must evaluate the data submitted and use it in a biennial report on the program submitted to the appropriate committees of the legislature.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.131 RCW to read as follows:

The Washington manufacturing innovation and modernization extension service program under chapter 43.— RCW (created in section 10 of this act) shall be terminated June 30, 2012, as provided in section 8 of this act.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2013:

(1) Section 1 of this act;

(2) Section 2 of this act;

(3) Section 3 of this act;

(4) Section 4 of this act;

(5) Section 5 of this act; and

(6) Section 6 of this act.

NEW SECTION. **Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 10.** Sections 1 through 6 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 10, 2008.
Passed by the House March 7, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 316

[Substitute Senate Bill 6527]
MOTOR VEHICLES—TRANSFER OF OWNERSHIP

AN ACT Relating to the transfer of motor vehicle certificate of ownership and license registration; amending RCW 46.12.101; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.12.101 and 2007 c 96 s 1 are each amended to read as follows:

A transfer of ownership in a motor vehicle is perfected by compliance with the requirements of this section.

(1)(a) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description of the vehicle, including the vehicle identification number, as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b). By January 1, 2003, the department shall create a system enabling the seller of a vehicle to transmit the report of sale electronically. The system created by the department must immediately indicate on the department's vehicle record that a seller's report of sale has been filed.

(b) By January 1, 2008, the department shall provide instructions on release of interest forms that allow the seller of a vehicle to release his or her interest in a vehicle at the same time a financial institution, as defined in RCW 30.22.040, releases ((~~their~~)) its lien on the vehicle.

(2) The requirements of subsection (1) of this section to provide an odometer disclosure statement apply to the transfer of vehicles held for lease when transferred to a lessee and then to the lessor at the end of the leasehold and to vehicles held in a fleet when transferred to a purchaser.

(3) Except as provided in RCW 46.70.122 the transferee shall within fifteen days after delivery to the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department accompanied by a fee of five dollars in addition to any other fees required.

(4) Upon request of the owner or transferee, a secured party in possession of the certificate of ownership shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party.

(5) If a security interest is reserved or created at the time of the transfer, the certificate of ownership shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provisions of RCW 46.12.170.

(6) If the purchaser or transferee fails or neglects to make application to transfer the certificate of ownership and license registration within fifteen days after the date of delivery of the vehicle, he or she shall on making application for transfer be assessed a twenty-five dollar penalty on the sixteenth day and two dollars additional for each day thereafter, but not to exceed one hundred dollars. The director may by rule establish conditions under which the penalty will not be assessed when an application for transfer is delayed for reasons beyond the control of the purchaser. Conditions for not assessing the penalty may be established for but not limited to delays caused by:

(a) The department requesting additional supporting documents;

(b) Extended hospitalization or illness of the purchaser;

(c) Failure of a legal owner to release his or her interest;

(d) Failure, negligence, or nonperformance of the department, auditor, or subagent;

(e) The transferee had no knowledge of the filing of the vehicle report of sale and signs an affidavit to the fact.

Failure or neglect to make application to transfer the certificate of ownership and license registration within forty-five days after the date of delivery of the vehicle is a misdemeanor and a continuing offense for each day during which the purchaser or transferee does not make application to transfer the certificate of ownership and license registration. Despite the continuing nature of this offense, it shall be considered a single offense, regardless of the number of days that have elapsed following the forty-five day time period.

(7) Upon receipt of an application for reissue or replacement of a certificate of ownership and transfer of license registration, accompanied by the endorsed certificate of ownership or other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of ownership and license registration have been complied with,

issue new certificates of title and license registration as in the case of an original issue and shall transmit the fees together with an itemized detailed report to the state treasurer.

(8) Once each quarter the department shall report to the department of revenue a list of those vehicles for which a seller's report has been received but no transfer of title has taken place.

Passed by the Senate March 10, 2008.
Passed by the House March 7, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 317

[Substitute Senate Bill 6583]

MEDICAL ASSISTANCE—ELIGIBILITY

AN ACT Relating to eligibility for medical assistance; amending RCW 74.09.510, 74.09.530, and 48.41.100; creating a new section; and providing a contingent effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.09.510 and 2007 c 315 s 1 are each amended to read as follows:

(1) Medical assistance may be provided in accordance with eligibility requirements established by the department, as defined in the social security Title XIX state plan for mandatory categorically needy persons and:

((~~(1)~~)) (a) Individuals who would be eligible for cash assistance except for their institutional status;

((~~(2)~~)) (b) Individuals who are under twenty-one years of age, who would be eligible for medicaid, but do not qualify as dependent children and who are in ((~~(a)~~)) (i) foster care, ((~~(b)~~)) (ii) subsidized adoption, ((~~(c)~~)) (iii) a nursing facility or an intermediate care facility for persons who are mentally retarded, or ((~~(d)~~)) (iv) inpatient psychiatric facilities;

((~~(3)~~)) (c) Individuals who:

((~~(a)~~)) (i) Are under twenty-one years of age;

((~~(b)~~)) (ii) On or after July 22, 2007, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state; and

((~~(c)~~)) (iii) On their eighteenth birthday, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;

((~~(4)~~)) (d) Persons who are aged, blind, or disabled who: ((~~(a)~~)) (i) Receive only a state supplement, or ((~~(b)~~)) (ii) would not be eligible for cash assistance if they were not institutionalized;

((~~(5)~~)) (e) Categorically eligible individuals who meet the income and resource requirements of the cash assistance programs;

((~~(6)~~)) (f) Individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act;

((~~(7)~~)) (g) Children and pregnant women allowed by federal statute for whom funding is appropriated;

((~~(8)~~)) (h) Working individuals with disabilities authorized under section 1902(a)(10)(A)(ii) of the social security act for whom funding is appropriated;

((~~(9)~~)) (i) Other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act;

((~~(10)~~)) (j) Persons allowed by section 1931 of the social security act for whom funding is appropriated; and

((~~(11)~~)) (k) Women who: ((~~(a)~~)) (i) Are under sixty-five years of age; ((~~(b)~~)) (ii) have been screened for breast and cervical cancer under the national breast and cervical cancer early detection program administered by the department of health or tribal entity and have been identified as needing treatment for breast or cervical cancer; and ((~~(c)~~)) (iii) are not otherwise covered by health insurance. Medical assistance provided under this subsection (1)(k) is limited to the period during which the woman requires treatment for breast or cervical cancer, and is subject to any conditions or limitations specified in the omnibus appropriations act.

(2) To the extent permitted under federal law, the department shall set the categorically needy income level for adults who are sixty-five years of age or older, blind, or disabled, at eighty percent of the federal poverty level as adjusted annually beginning July 1, 2009. As used in this section, "federal poverty level" refers to the poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. Sec. 9902(2).

Sec. 2. RCW 74.09.530 and 2007 c 315 s 2 are each amended to read as follows:

(1) The amount and nature of medical assistance and the determination of eligibility of recipients for medical assistance shall be the responsibility of the department of social and health services. The department shall establish reasonable standards of assistance and resource and income exemptions which shall be consistent with the provisions of the Social Security Act and with the regulations of the secretary of health, education and welfare for determining eligibility of individuals for medical assistance and the extent of such assistance to the extent that funds are available from the state and federal government. The department shall not consider resources in determining continuing eligibility for recipients eligible under section 1931 of the social security act.

(2) Individuals eligible for medical assistance under RCW 74.09.510((~~(3)~~)) (1)(c) shall be transitioned into coverage under that subsection immediately upon their termination from coverage under RCW 74.09.510((~~(2)(a)~~)) (1)(b)(i). The department shall use income eligibility standards and eligibility determinations applicable to children placed in foster care. The department, in consultation with the health care authority, shall provide information regarding basic health plan enrollment and shall offer assistance with the application and enrollment process to individuals covered under RCW 74.09.510((~~(3)~~)) (1)(c) who are approaching their twenty-first birthday.

NEW SECTION. **Sec. 3.** The department of social and health services shall prepare a fiscal analysis of the increases in the medicaid categorically needy

income level to eighty percent of the federal poverty level as described in RCW 74.09.510. In developing the fiscal analysis, the department shall present both costs and cost offsets related to continuous access to health services including: Per capita cost reductions that resulted from current medically needy clients having access to continuous coverage through the categorically needy program; any reductions in the number of clients receiving long-term care services; the impact on department staffing needs, including savings associated with reduced medically needy caseloads; shifts in enrollment from the Washington basic health plan to medicaid coverage; and the impact on regional support networks, including additional medicaid revenues, reduced demand for nonmedicaid funded services, and changes in utilization of emergency room and hospital services. The department shall submit the analysis to the governor and the health policy and fiscal committees of the legislature by November 1, 2010.

Sec. 4. RCW 48.41.100 and 2007 c 259 s 30 are each amended to read as follows:

(1) The following persons who are residents of this state are eligible for pool coverage:

(a) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

(b) Any person who continues to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

(c) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; and

(d) Any medicare eligible person upon providing evidence of rejection for medical reasons, a requirement of restrictive riders, an up-rated premium, or a preexisting conditions limitation on a medicare supplemental insurance policy under chapter 48.66 RCW, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out two million dollars in benefits;

(c) Inmates of public institutions, and those persons ((~~whose benefits are duplicated under public programs~~)) who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal

health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)(d) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)(c) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)(c) of this section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)(c) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a), (b), or (d) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)(b) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted, including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

NEW SECTION. **Sec. 5.** This act takes effect July 1, 2009, if specific funding for purposes of this act, referencing this act by bill or chapter number, is provided by June 30, 2009, in the omnibus operating appropriations act. If funding is not so provided, this act is null and void.

Passed by the Senate March 11, 2008.

Passed by the House March 6, 2008.

Approved by the Governor April 1, 2008.

Filed in Office of Secretary of State April 2, 2008.

CHAPTER 318

[Senate Bill 6628]

MENTAL HEALTH TREATMENT—DEFENDANTS—COST RECOVERY

AN ACT Relating to clarifying the state's ability to recover from defendants the cost of mental health treatment provided at state hospitals; amending RCW 10.01.160; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that because of the decision in *Utter v. DSHS*, 165 P.3d 399 (Wash. 2007), there is unintended ambiguity about the authority of the secretary of the department of social and health services under the criminal procedure act to seek reimbursement from defendants under RCW 10.77.250 who are committed for competency evaluation and mental health treatment under RCW 10.77.060 and 10.77.084, and the general provision prohibiting a criminal defendant from being charged for prosecution related costs prior to conviction provided in RCW 10.01.160. Mental health evaluation and treatment, and other medical treatment relate entirely to the medically necessary care that defendants receive at state hospitals and other facilities. The legislature intended for treatment costs to be the responsibility of the defendant's insurers and ultimately the defendant based on their ability to pay, and it is permissible under chapters 10.77, 70.48, and 43.20B RCW for the state and other governmental units to assess financial liability on defendants who become patients and receive medical and mental health care. The legislature further finds that it intended that a court order staying criminal proceedings under RCW 10.77.084, and committing a defendant to the custody of the secretary of the department of social and health services for placement in an appropriate facility involve costs payable by the defendant, because the commitment primarily and directly benefits the defendant through treatment of their medical and mental health conditions. The legislature did not intend for medical and mental health services provided to a defendant in the custody of a governmental unit, and the associated costs, to be costs related to the prosecution of the defendant. Thus, if a court orders a stay of the criminal proceeding under RCW 10.77.084 and orders commitment to the custody of the secretary, or if at any time a defendant receives other medical care while in custody of a governmental unit, but prior to conviction, the costs associated with such care shall be the responsibility of the defendant and the defendant's insurers as provided in chapters 10.77, 70.48, and 43.20B RCW. The intent of the legislature is to clarify this reimbursement requirement, and the purpose of this act is to make retroactive, remedial, curative, and technical amendments in order to resolve any ambiguity about the legislature's intent in enacting these chapters.

Sec. 2. RCW 10.01.160 and 2007 c 367 s 3 are each amended to read as follows:

(1) The court may require a defendant to pay costs. Costs may be imposed only upon a convicted defendant, except for costs imposed upon a defendant's entry into a deferred prosecution program, costs imposed upon a defendant for pretrial supervision, or costs imposed upon a defendant for preparing and serving a warrant for failure to appear.

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program

under chapter 10.05 RCW or pretrial supervision. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a defendant to pay. Costs for administering a deferred prosecution or pretrial supervision may not exceed one hundred fifty dollars. Costs for preparing and serving a warrant for failure to appear may not exceed one hundred dollars. Costs of incarceration imposed on a defendant convicted of a misdemeanor or a gross misdemeanor may not exceed the actual cost of incarceration. In no case may the court require the offender to pay more than one hundred dollars per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendants for the cost of incarceration in the county or city jail must be remitted for criminal justice purposes to the county or city that is responsible for the defendant's jail costs. Costs imposed constitute a judgment against a defendant and survive a dismissal of the underlying action against the defendant. However, if the defendant is acquitted on the underlying action, the costs for preparing and serving a warrant for failure to appear do not survive the acquittal, and the judgment that such costs would otherwise constitute shall be vacated.

(3) The court shall not order a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(4) A defendant who has been ordered to pay costs and who is not in contumacious default in the payment thereof may at any time petition the sentencing court for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170.

(5) Except for direct costs relating to evaluating and reporting to the court, prosecutor, or defense counsel regarding a defendant's competency to stand trial as provided in RCW 10.77.060, this section shall not apply to costs related to medical or mental health treatment or services a defendant receives while in custody of the secretary of the department of social and health services or other governmental units. This section shall not prevent the secretary of the department of social and health services or other governmental units from imposing liability and seeking reimbursement from a defendant committed to an appropriate facility as provided in RCW 10.77.084 while criminal proceedings are stayed. This section shall also not prevent governmental units from imposing liability on defendants for costs related to providing medical or mental health treatment while the defendant is in the governmental unit's custody. Medical or mental health treatment and services a defendant receives at a state hospital or other facility are not a cost of prosecution and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter 43.20B RCW, and any other applicable statute.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 11, 2008.
Passed by the House March 12, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 319

[Engrossed Senate Bill 6641]

PROPERTY TAX INCREASES—BALLOT PROPOSITIONS

AN ACT Relating to providing that voter-approved property tax increases do not permanently increase a taxing district's levy base, unless expressly stated in the ballot proposition; amending RCW 84.55.050; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.55.050 and 2007 c 380 s 2 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than twelve months prior to the date on which the proposed levy is to be made, except as provided in subsection (2) of this section. The ballot of the proposition shall state the dollar rate proposed and shall clearly state the conditions, if any, which are applicable under subsection (4) of this section.

(2) Subject to statutory dollar limitations, a proposition placed before the voters under this section may authorize annual increases in levies for multiple consecutive years, up to six consecutive years, during which period each year's authorized maximum legal levy shall be used as the base upon which an increased levy limit for the succeeding year is computed, but the ballot proposition must state the dollar rate proposed only for the first year of the consecutive years and must state the limit factor, or a specified index to be used for determining a limit factor, such as the consumer price index, which need not be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years. Elections for this purpose must be held at a primary or general election. The title of each ballot measure must state the ((~~specific~~)) limited purposes for which the proposed annual increases during the specified period of up to six consecutive years shall be used, and funds raised under the levy shall not supplant existing funds used for these purposes. For purposes of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur,

changes in contract provisions beyond the control of the taxing district receiving the services, and major nonrecurring capital expenditures.

(3) After a levy authorized pursuant to this section is made, the dollar amount of such levy ((~~shall~~)) may not be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, ((~~except as provided in subsection (5) of this section~~)) unless the ballot proposition expressly states that the levy made under this section will be used for this purpose.

(4) If expressly stated, a proposition placed before the voters under subsection (1) or (2) of this section may:

(a) Use the dollar amount of a levy under subsection (1) of this section, or the dollar amount of the final levy under subsection (2) of this section, for the purpose of computing the limitations for subsequent levies provided for in this chapter;

(b) Limit the period for which the increased levy is to be made under (a) of this subsection;

(((~~(b)~~))) (c) Limit the purpose for which the increased levy is to be made under (a) of this subsection, but if the limited purpose includes making redemption payments on bonds, the period for which the increased levies are made shall not exceed nine years;

(((~~(c)~~))) (d) Set the levy or levies at a rate less than the maximum rate allowed for the district; or

(((~~(d)~~))) (e) Include any combination of the conditions in this subsection.

(5) Except as otherwise ((~~provided~~)) expressly stated in an approved ballot measure under this section, ((~~after the expiration of a limited period under subsection (4)(a) of this section or the satisfaction of a limited purpose under subsection (4)(b) of this section, whichever comes first,~~)) subsequent levies shall be computed as if:

(a) The ((~~limited~~)) proposition under ((~~subsection (4) of~~)) this section had not been approved; and

(b) The taxing district had made levies at the maximum rates which would otherwise have been allowed under this chapter during the years levies were made under the ((~~limited~~)) proposition.

NEW SECTION. **Sec. 2.** This act applies prospectively only to levy lid lift ballot propositions under RCW 84.55.050 that receive voter approval on or after the effective date of this act.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 19, 2008.

Passed by the House March 6, 2008.

Approved by the Governor April 1, 2008.

Filed in Office of Secretary of State April 2, 2008.

CHAPTER 320

[Engrossed Substitute Senate Bill 6665]

INTENSIVE CASE MANAGEMENT—INTEGRATED RESPONSE—PILOT PROGRAMS

AN ACT Relating to the intensive case management and integrated response pilot programs; amending RCW 70.96A.800, 70.96B.800, 70.96B.010, 70.96B.020, 70.96B.050, and 70.96B.100; creating a new section; repealing RCW 70.96B.900; and repealing 2007 c 120 s 4 (uncodified).

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.96A.800 and 2005 c 504 s 220 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the secretary shall select and contract with counties to provide intensive case management for chemically dependent persons with histories of high utilization of crisis services at two sites. In selecting the two sites, the secretary shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to RCW 70.96B.020, to the extent necessary to facilitate evaluation of pilot project results. Subject to funds appropriated for this specific purpose, the secretary may contract with additional counties to provide intensive case management.

(2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary chemical dependency diagnosis or dual primary chemical dependency and mental health diagnoses, through the employment of chemical dependency case managers. The chemical dependency case managers shall:

(a) Be trained in and use the integrated, comprehensive screening and assessment process adopted under RCW 70.96C.010;

(b) Reduce the use of crisis medical, chemical dependency and mental health services, including but not limited to, emergency room admissions, hospitalizations, detoxification programs, inpatient psychiatric admissions, involuntary treatment petitions, emergency medical services, and ambulance services;

(c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;

(d) Reduce the number of criminal justice interventions including arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;

(e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;

(f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;

(g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;

(h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;

(i) Document the numbers of persons with co-occurring mental and substance abuse disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and

(j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

((~~(4) This section expires June 30, 2008.~~))

Sec. 2. RCW 70.96B.800 and 2005 c 504 s 217 are each amended to read as follows:

(1) The Washington state institute for public policy shall evaluate the pilot programs and make ((~~a~~)) preliminary report<u>s</u> to appropriate committees of the legislature by December 1, 2007, <u>and June 30, 2008,</u> and a final report by ((~~September 30, 2008~~)) <u>June 30, 2010</u>.

(2) The evaluation of the pilot programs shall include:

(a) Whether the designated crisis responder pilot program:

(i) Has increased efficiency of evaluation and treatment of persons involuntarily detained for seventy-two hours;

(ii) Is cost-effective;

(iii) Results in better outcomes for persons involuntarily detained;

(iv) Increased the effectiveness of the crisis response system in the pilot catchment areas;

(b) The effectiveness of providing a single chapter in the Revised Code of Washington to address initial detention of persons with mental disorders or chemical dependency, in crisis response situations and the likelihood of effectiveness of providing a single, comprehensive involuntary treatment act.

(3) The reports shall consider the impact of the pilot programs on the existing mental health system and on the persons served by the system.

Sec. 3. RCW 70.96B.010 and 2005 c 504 s 202 are each amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician that a person should be examined or treated as a patient in a hospital, an evaluation and treatment facility, or other inpatient facility, or a decision by a professional person in charge or his or her designee that a person should be detained as a patient for evaluation and treatment in a secure detoxification facility or other certified chemical dependency provider.

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

(3) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department as meeting standards adopted under chapter 70.96A RCW.

(4) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient.

(5) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(6) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(7) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.

(8) "Conditional release" means a revocable modification of a commitment that may be revoked upon violation of any of its terms.

(9) "Custody" means involuntary detention under either chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

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

(11) "Designated chemical dependency specialist" or "specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and this chapter, and qualified to do so by meeting standards adopted by the department.

(12) "Designated crisis responder" means a person designated by the county or regional support network to perform the duties specified in this chapter.

(13) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(14) "Detention" or "detain" means the lawful confinement of a person under this chapter, or chapter 70.96A or 71.05 RCW.

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with individuals with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(16) "Developmental disability" means that condition defined in RCW 71A.10.020.

(17) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

(18) "Evaluation and treatment facility" means any facility that can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and that is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility that is part of, or operated by, the department or any federal agency does not require certification. No correctional institution or facility, or jail, may be an evaluation and treatment facility within the meaning of this chapter.

(19) "Facility" means either an evaluation and treatment facility or a secure detoxification facility.

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(21) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(22) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

(23) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

((~~(23)~~)) (24) "Judicial commitment" means a commitment by a court under this chapter.

((~~(24)~~)) (25) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

((~~(25)~~)) (26) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts.

((~~(26)~~)) (27) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

((~~(27)~~)) (28) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

((~~(28)~~)) (29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

((~~(29)~~)) (30) "Person in charge" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified

treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.

((~~(30)~~)) (31) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved treatment program, that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent.

((~~(31)~~)) (32) "Professional person" means a mental health professional or chemical dependency professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter.

((~~(32)~~)) (33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

((~~(33)~~)) (34) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

((~~(34)~~)) (35) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved treatment program that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

((~~(35)~~)) (36) "Registration records" means all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

((~~(36)~~)) (37) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW or this chapter.

((~~(37)~~)) (38) "Secretary" means the secretary of the department or the secretary's designee.

((~~(38)~~)) (39) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that serves the purpose of providing evaluation and assessment, and acute and/or subacute detoxification services for intoxicated persons and includes security measures sufficient to protect the patients, staff, and community.

((~~(39)~~)) (40) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

((~~(40)~~)) (41) "Treatment records" means registration records and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(((~~(41)~~))) (42) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

***Sec. 4. RCW 70.96B.020 and 2005 c 504 s 203 are each amended to read as follows:**

(1) Subject to funds appropriated for this specific purpose, the secretary, after consulting with the Washington state association of counties, shall select and contract with regional support networks or counties to provide two integrated crisis response and involuntary treatment pilot programs for adults and shall allocate resources for both integrated services and secure detoxification services in the pilot areas. In selecting the two regional support networks or counties, the secretary shall endeavor to site one in an urban and one in a rural regional support network or county; and to site them in counties other than those selected pursuant to RCW 70.96A.800, to the extent necessary to facilitate evaluation of pilot project results. Subject to funds appropriated for this specific purpose, the secretary may contract with additional regional support networks or counties to provide integrated crisis response and involuntary treatment pilot programs to adults.

(2) The regional support networks or counties shall implement the pilot programs by providing integrated crisis response and involuntary treatment to persons with a chemical dependency, a mental disorder, or both, consistent with this chapter. The pilot programs shall:

(a) Combine the crisis responder functions of a designated mental health professional under chapter 71.05 RCW and a designated chemical dependency specialist under chapter 70.96A RCW by establishing a new designated crisis responder who is authorized to conduct investigations and detain persons up to seventy-two hours to the proper facility;

(b) Provide training to the crisis responders as required by the department;

(c) Provide sufficient staff and resources to ensure availability of an adequate number of crisis responders twenty-four hours a day, seven days a week;

(d) Provide the administrative and court-related staff, resources, and processes necessary to facilitate the legal requirements of the initial detention and the commitment hearings for persons with a chemical dependency;

(e) Participate in the evaluation and report to assess the outcomes of the pilot programs including providing data and information as requested;

(f) Provide the other services necessary to the implementation of the pilot programs, consistent with this chapter as determined by the secretary in contract; and

(g) Collaborate with the department of corrections where persons detained or committed are also subject to supervision by the department of corrections.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

***Sec. 4 was vetoed. See message at end of chapter.**

Sec. 5. RCW 70.96B.050 and 2007 c 120 s 1 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, chemical dependency disorder, or both, presents a likelihood of serious harm or is gravely disabled, the designated crisis

responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at either an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider.

(2)(a) An order to detain to an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider for not more than a seventy-two hour evaluation and treatment period may be issued by a judge upon request of a designated crisis responder: (i) Whenever it appears to the satisfaction of a judge of the superior court, district court, or other court permitted by court rule, that there is probable cause to support the petition, and (ii) that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury or sworn telephonic testimony, may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear, together with a notice of rights and a petition for initial detention. After service on the person, the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility or secure detoxification facility and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider. If requested by the detained person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may be continued subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours. The person may be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other person accompanying the person may be present during the admission evaluation. The facility may exclude the person if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take the person or cause the person to be taken into custody and placed in an evaluation and treatment facility, a secure detoxification facility, or other certified chemical dependency provider. At the time the person is taken into custody there shall

commence to be served on the person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, and a petition for initial detention.

Sec. 6. RCW 70.96B.100 and 2005 c 504 s 211 are each amended to read as follows:

((~~If a person is detained for additional treatment beyond fourteen days under RCW 70.96B.090, the professional staff of the agency or facility may petition for additional treatment under RCW 70.96A.140.~~)) (1) A person detained for fourteen days of involuntary chemical dependency treatment under RCW 70.96B.090 or subsection (6) of this section shall be released from involuntary treatment at the expiration of the period of commitment unless the professional staff of the agency or facility files a petition for an additional period of involuntary treatment under RCW 70.96A.140, or files a petition for sixty days less restrictive treatment under this section naming the detained person as a respondent. Costs associated with the obtainment or revocation of an order for less restrictive treatment and subsequent involuntary commitment shall be provided for within current funding.

(2) A petition for less restrictive treatment must be filed at least three days before expiration of the fourteen-day period of intensive treatment, and comport with the rules contained in RCW 70.96B.090(2). The petition shall state facts that support the finding that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or others. At the time of filing such a petition, the clerk shall set a time for the respondent to come before the court on the next judicial day after the day of filing unless such appearance is waived by the respondent's attorney.

(3) At the time set for appearance the respondent must be brought before the court, unless such appearance has been waived and the court shall advise the respondent of his or her right to be represented by an attorney. If the respondent is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent the respondent. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the respondent to examine and testify on behalf of the respondent.

(4) The court shall conduct a hearing on the petition for sixty days less restrictive treatment on or before the last day of the confinement period. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The respondent shall be present at such proceeding. The rules of evidence shall apply, and the respondent shall have the right to present evidence on his or her behalf, to cross-examine witnesses who testify against him or her, to remain silent, and to view and copy all petitions and reports in the court file. The physician-patient privilege or the psychologist-client privilege shall be deemed waived in accordance with the provisions under RCW 71.05.360(9). Involuntary treatment shall continue while a petition for less restrictive treatment is pending under this section.

(5) The court may impose a sixty-day less restrictive order if the evidence shows that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or

others. The less restrictive order may impose treatment conditions and other conditions which are in the best interest of the respondent and others. A copy of the less restrictive order shall be given to the respondent, the designated crisis responder, and any program designated to provide less restrictive treatment. A program designated to provide less restrictive treatment and willing to supervise the conditions of the less restrictive order may modify the conditions for continued release when the modification is in the best interests of the respondent, but must notify the designated crisis responder and the court of such modification.

(6) If a program approved by the court and willing to supervise the conditions of the less restrictive order or the designated crisis responder determines that the respondent is failing to adhere to the terms of the less restrictive order or that substantial deterioration in the respondent's functioning has occurred, then the designated crisis responder shall notify the court of original commitment and request a hearing to be held no less than two and no more than seven days after the date of the request to determine whether or not the respondent should be returned to more restrictive care. The designated crisis responder may cause the respondent to be immediately taken into custody of the secure detoxification facility pending the hearing if the alleged noncompliance causes the respondent to present a likelihood of serious harm. The designated crisis responder shall file a petition with the court stating the facts substantiating the need for the hearing along with the treatment recommendations. The respondent shall have the same rights with respect to notice, hearing, and counsel as for the original involuntary treatment proceedings. The issues to be determined at the hearing are whether the conditionally released respondent did or did not adhere to the terms and conditions of his or her release to less restrictive care or that substantial deterioration of the respondent's functioning has occurred and whether the conditions of release should be modified or the respondent should be returned to a more restrictive setting. The hearing may be waived by the respondent and his or her counsel and his or her guardian or conservator, if any, but may not be waived unless all such persons agree to the waiver. If the court finds in favor of the petitioner, or the respondent waives a hearing, the court may order the respondent to be committed to a secure detoxification facility for fourteen days of involuntary chemical dependency treatment, or may order the respondent to be returned to less restrictive treatment on the same or modified conditions.

NEW SECTION. **Sec. 7.** RCW 70.96B.900 (Expiration date—2005 c 504 §§ 202-216) and 2005 c 504 s 219 are each repealed.

NEW SECTION. **Sec. 8.** 2007 c 120 s 4 (uncodified) is repealed.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 12, 2008.
Passed by the House March 12, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 4, Engrossed Substitute Senate Bill 6665 entitled:

"AN ACT Relating to the intensive case management and integrated response pilot programs."

This bill extends the life of two pilot programs authorized by the Legislature in 2005, the Intensive Case Management and the Integrated Crisis Response pilots. Section 4 provides the Department of Social and Health Services with the authority to expand the number of intensive crisis response pilots. Vetoing this section allows time for the Washington State Institute for Public Policy to adequately study the effectiveness of these programs prior to making a determination on whether to expand their availability.

For these reasons, I have vetoed Section 4 of Engrossed Substitute Senate Bill 6665.

With the exception of Section 4, Engrossed Substitute Senate Bill 6665 is approved."

CHAPTER 321

[Engrossed Second Substitute Senate Bill 6673]

HIGH SCHOOL—GRADUATION REQUIREMENTS—LEARNING ASSISTANCE

AN ACT Relating to learning opportunities to assist students to obtain a high school diploma; amending RCW 28A.165.035, 28B.118.010, and 28A.165.055; reenacting and amending RCW 28A.655.061; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.655 RCW; adding a new section to chapter 28A.310 RCW; adding new sections to chapter 28A.300 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that high school students need to graduate with the skills necessary to be successful in college and work. The state graduation requirements help to ensure that Washington high school graduates have the basic skills to be competitive in a global economy. Under education reform started in 1993, time was to be the variable, obtaining the skills was to be the constant. Therefore, students who need additional time to gain the academic skills needed for college and the workplace should have the opportunities they need to reach high academic achievement, even if that takes more than the standard four years of high school.

Different students face different challenges and barriers to their academic success. Some students struggle to meet the standard on a single portion of the Washington assessment of student learning while excelling in the other subject areas; other students struggle to complete the necessary state or local graduation credits; while still others have their knowledge tested on the assessments and have completed all the credit requirements but are struggling because English is not their first language. The legislature finds that many of these students need additional time and support to achieve academic proficiency and meet all graduation requirements.

Sec. 2. RCW 28A.655.061 and 2007 c 355 s 5 and 2007 c 354 s 2 are each reenacted and amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and

knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the scholastic assessment test (SAT) or the American college test (ACT) may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the preliminary scholastic assessment test (PSAT) may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected ((~~advance placement~~)) AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the ((~~advance placement~~)) AP examinations in calculus or statistics may be used as an alternative assessment for the

mathematics portion of the Washington assessment of student learning. A score of three on the ((~~advance placement~~)) AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the ((~~advance placement~~)) AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection (12).

(a) Student learning plans are required for eighth through twelfth grade students who were not successful on any or all of the content areas of the Washington assessment for student learning during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

(i) The student's results on the Washington assessment of student learning;

(ii) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

(iii) Any credit deficiencies;

(iv) The student's attendance rates over the previous two years;

(v) The student's progress toward meeting state and local graduation requirements;

(vi) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation((~~. If applicable, the plan shall also include the high school completion pilot program created under RCW 28B.50.534.~~

~~(i) The parent or guardian shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, strategies to help them improve their student's skills, and the content of the student's plan.~~

~~(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary~~));

(vii) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;

(viii) The alternative assessment options available to students under this section and RCW 28A.655.065;

(ix) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

(x) Available programs offered through skill centers or community and technical colleges.

(b) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.

(i) The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) The extended learning opportunities program is created for eligible eleventh and twelfth grade students who are not on track to meet local or state graduation requirements as well as eighth grade students who may not be on track to meet the standard on the Washington assessment of student learning or need additional assistance in order to have the opportunity for a successful entry into high school. The program shall provide early notification of graduation status and information on education opportunities including preapprenticeship programs that are available.

(2) Under the extended learning opportunities program, districts shall make available to students in grade twelve who have failed to meet one or more local or state graduation requirements the option of continuing enrollment in the school district in accordance with RCW 28A.225.160. Districts are authorized to use basic education program funding to provide instruction to eligible students under RCW 28A.150.220(3).

(3) Under the extended learning program, instructional services for eligible students can occur during the regular school day, evenings, on weekends, or at a time and location deemed appropriate by the school district, including the educational service district, in order to meet the needs of these students. Instructional services provided under this section do not include services offered at private schools. Instructional services can include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Instruction in English language arts and/or mathematics that eligible students need to pass all or part of the Washington assessment of student learning;

(c) Attendance in a public high school or public alternative school classes or at a skill center;

(d) Inclusion in remediation programs, including summer school;

(e) Language development instruction for English language learners;

(f) Online curriculum and instructional support, including programs for credit retrieval and Washington assessment of student learning preparatory classes; and

(g) Reading improvement specialists available at the educational service districts to serve eighth, eleventh, and twelfth grade educators through professional development in accordance with RCW 28A.415.350. The reading improvement specialist may also provide direct services to eligible students and those students electing to continue a fifth year in a high school program who are still struggling with basic reading skills.

Sec. 4. RCW 28A.165.035 and 2004 c 20 s 4 are each amended to read as follows:

Use of best practices magnifies the opportunities for student success. The following are services and activities that may be supported by the learning assistance program:

(1) Extended learning time opportunities occurring:

(a) Before or after the regular school day;

(b) On Saturday; and

(c) Beyond the regular school year;

(2) Services under section 3 of this act;

(3) Professional development for certificated and classified staff that focuses on:

(a) The needs of a diverse student population;

(b) Specific literacy and mathematics content and instructional strategies; and

(c) The use of student work to guide effective instruction;

((~~(3)~~)) (4) Consultant teachers to assist in implementing effective instructional practices by teachers serving participating students;

((~~(4)~~)) (5) Tutoring support for participating students; and

((~~(5)~~)) (6) Outreach activities and support for parents of participating students.

NEW SECTION. **Sec. 5.** If funding is appropriated for this purpose, the office of the superintendent of public instruction shall explore online curriculum support in languages other than English that are currently available. By December 1, 2008, the office of the superintendent of public instruction shall report to the appropriate committees of the legislature recommendations for other online support in other languages that would most appropriately assist Washington's English language learners. Included in the recommendations shall be the actions that would need to be taken to access the recommended online support and the cost.

***NEW SECTION.** Sec. 6. A new section is added to chapter 28A.655 RCW to read as follows:*

(1) If funding is appropriated for this purpose, school districts shall provide all tenth graders enrolled in the district the option of taking the PSAT at no cost to the student.

(2) The office of the superintendent of public instruction shall enter into an agreement with the firm that administers the PSAT to reimburse the firm for the testing fees of students who take the test.

***Sec. 6 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 7.** (1) The legislature intends to build on the lessons learned in the Lorraine Wojahn dyslexia pilot reading program, which the legislature has funded since 2005.

(2) By September 15, 2008, each of the grant recipients shall report to the office of the superintendent of public instruction on the lessons learned in the pilot program regarding effective assessment and intervention programs to help students with dyslexia or characteristics of dyslexia, best practices for professional development, and strategies to build capacity and sustainability among teaching staff.

(3) By December 31, 2008, the office of the superintendent of public instruction shall aggregate the reports from the grant recipients and provide a report and recommendations to the appropriate committees of the legislature. The recommendations shall include how the lessons learned through the pilot program are best shared with school districts and how the best practices can be implemented statewide.

NEW SECTION. **Sec. 8.** (1) The legislature finds that educators are faced with the complex responsibility of educating an increasing population of English language learners who speak a wide variety of languages and dialects and may come with varying levels of formal schooling, students who come from low-income households, and students who have learning disabilities. These educators struggle to provide meaningful instruction that helps students meet high content standards while overcoming their challenges. The 2007 legislature directed the professional educator standards board to begin the process of adopting new certification requirements and revising the higher education teacher preparation program requirements. Additionally, the office of the superintendent of public instruction was directed to contract with the northwest regional educational laboratory to review and report on the ongoing English as a second language pilot projects and best practices related to helping students who are English language learners. It is therefore the intent of the legislature to build upon the work started in 2007 by requiring that the professional educator standards board consider the findings of the northwest regional educational laboratory and incorporate into its ongoing work a review of how to revise the current certification requirements and teacher preparation programs in order to better serve the needs of English language learners.

(2) The professional educator standards board shall convene a work group to develop recommendations for increasing teacher knowledge, skills, and competencies to address the needs of English language learner students. The work group shall include representatives from the Washington association of colleges for teacher education, school districts with significant populations of English language learner students who speak a single language, school districts with significant populations of English language learner students who speak multiple languages, classroom teachers, English as a second language teachers, bilingual education teachers, principals, the migrant and bilingual education office in the office of the superintendent of public instruction, and the higher education coordinating board. In making its selections, the professional educator standards board must include members from diverse cultural backgrounds and strive to promote geographic balance. The professional educator standards board shall invite participation by the northwest regional educational laboratory.

(3) The work group shall identify gaps and weaknesses in the current knowledge and skills standards for teacher preparation and teacher competencies regarding understanding how students acquire language, how to teach academic content in English to non-English speakers, and how to demonstrate cultural competence. The work group shall look to the English as a second language demonstration projects under RCW 28A.630.058 and the accompanying research and evaluation by the northwest regional educational laboratory.

(4) The work group shall submit a report by December 1, 2008, to the governor and the education and higher education committees of the legislature with findings and recommendations to improve the teacher preparation knowledge and skills standards and teacher competencies in the areas identified under subsection (2) of this section. Recommendations shall also include what professional development program components are most effective for existing educators of English language learners.

Sec. 9. RCW 28B.118.010 and 2007 c 405 s 2 are each amended to read as follows:

The higher education coordinating board shall design the Washington college bound scholarship program in accordance with this section.

(1) "Eligible students" are those students who qualify for free or reduced-price lunches. If a student qualifies in the seventh grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(2) Eligible students shall be notified of their eligibility for the Washington college bound scholarship program beginning in their seventh grade year. Students shall also be notified of the requirements for award of the scholarship.

(3) To be eligible for a Washington college bound scholarship, a student must sign a pledge during seventh or eighth grade that includes a commitment to graduate from high school with at least a C average and with no felony convictions. Students who were in the eighth grade during the 2007-08 school year may sign the pledge during the 2008-09 school year. The pledge must be witnessed by a parent or guardian and forwarded to the higher education coordinating board by mail or electronically, as indicated on the pledge form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (d).

(5) A student's family income will be assessed upon graduation before awarding the scholarship.

(6) If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded

grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

Sec. 10. RCW 28A.165.055 and 2005 c 489 s 1 are each amended to read as follows:

(1) Each school district with an approved program is eligible for state funds provided for the learning assistance program. The funds shall be appropriated for the learning assistance program in accordance with the biennial appropriations act. The distribution formula is for school district allocation purposes only. The distribution formula shall be based on one or more family income factors measuring economic need.

(2) In addition to the funds allocated to eligible school districts on the basis of family income factors, enhanced funds shall be allocated for school districts where more than twenty percent of students are eligible for and enrolled in the transitional bilingual instruction program under chapter 28A.180 RCW as provided in this subsection. The enhanced funding provided in this subsection shall take effect beginning in the 2008-09 school year.

(a) If, in the prior school year, a district's percent of October headcount student enrollment in grades kindergarten through twelve who are enrolled in the transitional bilingual instruction program, based on an average of the program headcount taken in October and May, exceeds twenty percent, twenty percent shall be subtracted from the district's percent transitional bilingual instruction program enrollment and the resulting percent shall be multiplied by the district's kindergarten through twelve annual average full-time equivalent enrollment for the prior school year.

(b) The number calculated under (a) of this subsection shall be the number of additional funded students for purposes of this subsection, to be multiplied by the per-funded student allocation rates specified in the omnibus appropriations act.

(c) School districts are only eligible for the enhanced funds under this subsection if their percentage of October headcount enrollment in grades kindergarten through twelve eligible for free or reduced price lunch exceeded forty percent in the prior school year.

***NEW SECTION.** Sec. 11. A new section is added to chapter 28A.310 RCW to read as follows:*

Educational service districts shall develop and provide a program of outreach to community-based programs and organizations within the district that are serving non-English speaking segments of the population as well as those programs that target subgroups of students that may be struggling academically, including to the extent possible, African-American, Native American, Asian, Pacific Islander, Hispanic, low income, and special education. Educational service districts shall consult and coordinate with the governor's minority commissions and the governor's office of Indian affairs in order to efficiently conduct this outreach and are encouraged to enter into partnerships with representatives of the local business communities in order to develop a coordinated outreach plan. The purpose of the outreach activities shall be to inform students via the various community-based programs and organizations of the educational opportunities available under chapter . . ., Laws of 2008 (this act) and to engage them in the process as appropriate. Outreach shall at a minimum include information about the availability of dropout and credit retrieval programs, remediation programs, and extended learning opportunities, including fifth year opportunities.

***Sec. 11 was vetoed. See message at end of chapter.**

***NEW SECTION.** Sec. 12. A new section is added to chapter 28A.300 RCW to read as follows:*

Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate grant funds to school districts to provide summer school funding for middle and high schools for all students to explore career opportunities rich in math, science, and technology using career and technical education as the delivery model.

***Sec. 12 was vetoed. See message at end of chapter.**

***NEW SECTION.** Sec. 13. A new section is added to chapter 28A.300 RCW to read as follows:*

Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall contract with a national organization to establish, maintain, and operate an endowment for the promotion of geography education in Washington state. The national organization must have experience operating geography education endowments in other states and must provide equal nonstate matching funds to the state funds provided in the contract. All funds in and any interest earned on the endowment shall be used exclusively for geography education programs including, but not limited to, curriculum materials, resource collections, and professional development institutes for teachers and

administrators. The national organization must have an established affiliated advisory committee in the state to recommend local projects to be funded by the endowment. The contract shall require that the organization report annually to the superintendent on the recipients of endowment funds and the amounts and purposes of expenditures from the fund.

***Sec. 13 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 14.** Of the amounts appropriated in the omnibus appropriations act of 2008 for implementation of chapter . . . (Second Substitute Senate Bill No. 6377), Laws of 2008, referencing that act by bill or chapter number, the superintendent of public instruction shall allocate funds as follows, unless otherwise specified in the omnibus appropriations act of 2008:

(1) $1,700,000 is provided to implement section 105 of Second Substitute Senate Bill No. 6377, grants for high demand programs;

(2) $350,000 is provided to implement section 107 of Second Substitute Senate Bill No. 6377, development of model programs of study, including costs that may be incurred by the state board for community and technical colleges to be paid through interagency agreement;

(3) $400,000 is provided to implement section 201 of Second Substitute Senate Bill No. 6377, support for course equivalencies and grants for integrated curriculum;

(4) $25,000 is provided to implement section 205 of Second Substitute Senate Bill No. 6377, career and technical education collection of evidence;

(5) $150,000 is provided to implement sections 301 and 303 of Second Substitute Senate Bill No. 6377, campaign for career and technical education and navigation 101 curriculum;

(6) $50,000 is provided to implement section 302 of Second Substitute Senate Bill No. 6377, certification exam fees; and

(7) $75,000 is provided to implement section 308 of Second Substitute Senate Bill No. 6377, technical high school study.

Passed by the Senate March 12, 2008.
Passed by the House March 11, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 6, 11, 12 and 13, Engrossed Second Substitute Senate Bill 6673 entitled:

"AN ACT Relating to learning opportunities to assist students to obtain a high school diploma."

Engrossed Second Substitute Senate Bill 6673 provides support for students in need of additional time or assistance to meet state academic standards and graduation requirements. Key components of this bill enhance the Learning Assistance Program, assure parent notification of student progress, and explore on-line curriculum support in languages other than English and build teacher instructional capacity. This bill also creates a number of new programs.

Section 6 creates a new duty for school districts to provide all tenth graders enrolled in the district the option of taking the PSAT at no cost to the student. While this test may provide students some information regarding their readiness for the SAT and college preparedness, there has not been coordination with the other college readiness assessment work already in progress, specifically work being done in mathematics.

Section 11 directs Educational Service Districts to develop and provide a program of outreach to community-based programs and organizations that are serving non-English speaking segments of the population as well as those programs that target groups of students who are struggling academically. This is an idea that should be considered within the context of the several studies, due this December, that will analyze and make recommendations on how to close the achievement gap.

Section 12 directs the Office of the Superintendent of Public Instruction to allocate grant funds to school districts to provide summer school funding for all middle and high school students to explore career opportunities rich in math, science, and technology. School districts and skills centers should be finding ways to engage students in learning and career exploration as part of their basic missions. One exciting opportunity initiated in 2006 is the Washington Aerospace Scholars, a statewide partnership through the Washington Aerospace Scholars Foundation with The Museum of Flight, schools and business partners. The program gives high school students the opportunity to participate in hands-on engineering activities; tour facilities at Boeing, the University of Washington, Microsoft, and Battelle; receive mentoring from astronauts, pilots, engineers, and scientists; and conduct a project on Mars exploration. Future funds need to support targeted programs that have been proven effective.

Section 13 directs the Office of the Superintendent of Public Instruction to contract with a national organization to establish and operate an endowment for the promotion of geography education. There are no funds provided for the creation of the endowment program.

For these reasons, I am vetoing Sections 6, 11, 12 and 13 of Engrossed Second Substitute Senate Bill 6673.

With the exception of Sections 6, 11, 12 and 13, Engrossed Second Substitute Senate Bill 6673 is approved."

CHAPTER 322

[Substitute Senate Bill 6711]

SMART HOMEOWNERSHIP CHOICES PROGRAM

AN ACT Relating to preventing foreclosures by creating the smart homeownership choices program; adding new sections to chapter 43.320 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.320 RCW to read as follows:

(1) The smart homeownership choices program is created in the department to assist low-income and moderate-income households, as defined in RCW 84.14.010, facing foreclosure.

(2) The department shall enter into an interagency agreement with the Washington state housing finance commission to implement and administer this program with moneys from the account created in section 2 of this act. The Washington state housing finance commission will request funds from the department as needed to implement and operate the program.

(3) The commission shall, under terms and conditions to be determined by the commission, assist homeowners who are delinquent on their mortgage payments to bring their mortgage payments current in order to refinance into a different loan product. Financial assistance received by homeowners under this chapter shall be repaid at the time of refinancing into a different loan product. Homeowners receiving financial assistance shall also agree to partake in a residential mortgage counseling program. Moneys may also be used for outreach activities to raise awareness of this program. Not more than four percent of the total appropriation for this program may be used for administrative expenses of the department and the commission.

(4) The commission must provide an annual report to the legislature at the end of each fiscal year of program operation. The report must include information including the total number of households seeking help to resolve mortgage delinquency, the number of program participants that successfully avoided foreclosure, and the number of program participants who refinanced a home, including information on the terms of both the new loan product and the product out of which the homeowner refinanced. The commission shall establish and report upon performance measures, including measures to gauge program efficiency and effectiveness and customer satisfaction.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.320 RCW to read as follows:

The smart homeownership choices program account is created in the custody of the state treasurer. All receipts from the appropriation in section 4 of this act as well as receipts from private contributions and all other sources that are specifically designated for the smart homeownership choices program must be deposited into the account. Expenditures from the account may be used solely for the purpose of preventing foreclosures through the smart homeownership choices program as described in section 1 of this act. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.320 RCW to read as follows:

The Washington state housing finance commission shall only serve low-income households, as defined in RCW 84.14.010, through the smart homeownership choices program described in section 1 of this act using state appropriated general funds in the smart homeownership choices program account created in section 2 of this act. Contributions from private and other sources to the account may be used to serve both low-income and moderate-income households, as defined in RCW 84.14.010, through the smart homeownership choices program.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 10, 2008.
Passed by the House March 4, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 323

[Substitute Senate Bill 6751]

APPRENTICESHIP PROGRAM PARTICIPANTS—UNEMPLOYMENT INSURANCE

AN ACT Relating to allowing individuals who left work to enter certain apprenticeship programs to receive unemployment insurance benefits; amending RCW 50.20.050 and 50.29.021; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.20.050 and 2006 c 13 s 2 are each amended to read as follows:

(1) With respect to claims that have an effective date before January 4, 2004:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual shall not be considered to have left work voluntarily without good cause when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system;

(iii) He or she has left work to relocate for the spouse's employment that is due to an employer-initiated mandatory transfer that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move; or

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

(c) In determining under this subsection whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other

significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.

(d) Subsection (1)(a) and (c) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits beginning with the first day of the calendar week in which he or she left work and thereafter for seven calendar weeks and until he or she has requalified, either by obtaining bona fide work in employment covered by this title and earning wages in that employment equal to seven times his or her weekly benefit amount or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department. This subsection does not apply to individuals covered by (b)(ii) or (iii) of this subsection.

(2) With respect to claims that have an effective date on or after January 4, 2004:

(a) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual is not disqualified from benefits under (a) of this subsection when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii)(A) With respect to claims that have an effective date before July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer: (1) Is outside the existing labor market area; and (2) is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and (II) remained employed as long as was reasonable prior to the move;

(B) With respect to claims that have an effective date on or after July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer, is outside the existing labor market area; and (II) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time; ((~~or~~))

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs; or

(xi) The individual left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program.

Sec. 2. RCW 50.29.021 and 2007 c 146 s 2 are each amended to read as follows:

(1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date on or after January 4, 2004.

(2)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the

individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:

(i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050(2)(b) (v) through (x).

(3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer. However, when a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) ((~~Individuals~~)) Benefits paid to an individual who ((~~qualify~~)) qualifies for benefits under RCW 50.20.050(2)(b) (iv) or (xi), as applicable, shall not ((~~have their benefits~~)) be charged to the experience rating account of any contribution paying employer.

(f) With respect to claims with an effective date on or after the first Sunday following April 22, 2005, benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer.

(4)(a) A contribution paying base year employer, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster; or

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.06 RCW.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

NEW SECTION. **Sec. 3.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

Passed by the Senate March 10, 2008.
Passed by the House March 4, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 324

[Senate Bill 6799]

FLORIST SALES—TAXATION—SOURCING

AN ACT Relating to the sourcing, for sales and use tax purposes, of sales of tangible personal property by florists; amending RCW 82.32.730; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.32.730 and 2007 c 6 s 501 are each amended to read as follows:

(1) Except as provided in subsections (5) through (7) of this section, for purposes of collecting or paying sales or use taxes to the appropriate

jurisdictions, all sales at retail shall be sourced in accordance with this subsection and subsections (2) through (4) of this section.

(a) When tangible personal property, an extended warranty, or a service defined as a retail sale under RCW 82.04.050 is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(b) When the tangible personal property, extended warranty, or a service defined as a retail sale under RCW 82.04.050 is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

(c) When (a) and (b) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(d) When (a), (b), and (c) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(e) When (a), (b), (c), or (d) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the extended warranty or service defined as a retail sale under RCW 82.04.050 was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(2) The lease or rental of tangible personal property, other than property identified in subsection (3) or (4) of this section, shall be sourced as provided in this subsection.

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with subsection (1) of this section. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (1) of this section.

(c) This subsection (2) does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(3) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment shall be sourced as provided in this subsection.

(a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location is as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location is not altered by intermittent use at different locations.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (1) of this section.

(c) This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(4) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with subsection (1) of this section.

(5)(a) A purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either a direct mail form or information that shows the jurisdictions to which the direct mail is delivered to recipients.

(i) Upon receipt of the direct mail form, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A direct mail form shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(ii) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

(b) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a direct mail form or delivery information as required by (a) of this subsection, the seller shall collect the tax according to subsection (1)(e) of this section. This subsection does not limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

(c) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser is not required to provide a direct mail form or delivery information to the seller.

(6) The following are sourced to the location at or from which delivery is made to the consumer:

(a) A retail sale of watercraft;

(b) A retail sale of a modular home, manufactured home, or mobile home; ((~~and~~))

(c) A retail sale, excluding the lease and rental, of a motor vehicle, trailer, semitrailer, or aircraft, that do not qualify as transportation equipment; and

(d) Florist sales. In the case of a sale in which one florist takes an order from a customer and then communicates that order to another florist who delivers the items purchased to the place designated by the customer, the location at or from which the delivery is made to the consumer is deemed to be the location of the florist originally taking the order.

(7) A retail sale of the providing of telecommunications services or ancillary services, as those terms are defined in RCW 82.04.065, shall be sourced in accordance with RCW 82.32.520.

(8) The definitions in this subsection apply throughout this section.

(a) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(b) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(c) "Florist sales" means the retail sale of tangible personal property by a florist. For purposes of this subsection (8)(c), "florist" means a person whose primary business activity is the retail sale of fresh cut flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products, used for decorative and not landscaping purposes.

(d) "Receive" and "receipt" mean taking possession of tangible personal property, making first use of services, or taking possession or making first use of digital goods, whichever comes first. "Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

((~~(d)~~)) (e) "Transportation equipment" means:

(i) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce;

(ii) Trucks and truck tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) Registered through the international registration plan; and

(B) Operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(iii) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

(iv) Containers designed for use on and component parts attached or secured on the items described in ((~~(d)~~)) (e)(i) through (iii) of this subsection.

(9) In those instances where there is no obligation on the part of a seller to collect or remit this state's sales or use tax, the use of tangible personal property or of a service, subject to use tax, is sourced to the place of first use in this state. The definition of use in RCW 82.12.010 applies to this subsection.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2008.

Passed by the Senate February 18, 2008.
Passed by the House March 5, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 325

[Engrossed Substitute Senate Bill 6809]

WORKING FAMILIES—TAX EXEMPTION

AN ACT Relating to providing a tax exemption for working families measured by the federal earned income tax credit; adding new sections to chapter 82.08 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that many Washington families do not earn enough annually to keep pace with increasing health care, child care, and work-related expenses. Because the state relies so heavily on sales tax revenue, families in Washington with the lowest incomes pay proportionately four or five times as much in state taxes as the most affluent households. The legislature finds that higher-income families are able to recover some of the sales and use taxes that they pay to support state and local government through the federal income tax deduction for sales and use taxes, but that lower-income people, who are not able to itemize, receive no benefit. Therefore, it is the intent of the legislature to provide a sales and use tax exemption, in the form of a remittance, to lower-income working families in Washington, and to use the federal earned income tax credit as a proxy for the amount of sales tax paid.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW to read as follows:

(1) A working families' tax exemption, in the form of a remittance tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales taxes paid under this chapter after January 1, 2008.

(2) For purposes of the exemption in this section, an eligible low-income person is:

(a) An individual, or an individual and that individual's spouse if they file a federal joint income tax return;

(b) Who is eligible for, and is granted, the credit provided in Title 26 U.S.C. Sec. 32; and

(c) Who properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington more than one hundred eighty days of the year for which the exemption is claimed.

(3) For remittances made in 2009 and 2010, the working families' tax exemption for the prior year is a retail sales tax exemption equal to the greater of five percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or twenty-five dollars. For 2011 and thereafter, the working families' tax exemption for the prior year is equal to the greater of ten percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or fifty dollars.

(4) For any fiscal period, the working families' tax exemption authorized under this section shall be approved by the legislature in the state omnibus

appropriations act before persons may claim the exemption during the fiscal period.

(5) The working families' tax exemption shall be administered as provided in this subsection.

(a) An eligible low-income person claiming an exemption under this section must pay the tax imposed under chapters 82.08, 82.12, and 82.14 RCW in the year for which the exemption is claimed. The eligible low-income person may then apply to the department for the remittance as calculated under subsection (3) of this section.

(b) Application shall be made to the department in a form and manner determined by the department, but the department must provide alternative filing methods for applicants who do not have access to electronic filing.

(c) Application for the exemption remittance under this section must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before January 1, 2008. The department may use the best available data to process the exemption remittance. The department shall begin accepting applications October 1, 2009.

(d) The department shall review the application and determine eligibility for the working families tax exemption based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(e) The department shall remit the exempted amounts to eligible low-income persons who submitted applications. Remittances may be made by electronic funds transfer or other means.

(f) The department may, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of and requirements for this exemption.

(g) The department may contact persons who appear to be eligible low-income persons as a result of information received from the internal revenue service under such conditions and requirements as the internal revenue service may by law require.

(6) The provisions of chapter 82.32 RCW apply to the exemption in this section.

(7) The department may adopt rules necessary to implement this section.

(8) The department shall limit its costs for the exemption program to the initial start-up costs to implement the program. The state omnibus appropriations act shall specify funding to be used for the ongoing administrative costs of the program. These ongoing administrative costs include, but are not limited to, costs for: The processing of internet and mail applications, verification of application claims, compliance and collections, additional full-time employees at the department's call center, processing warrants, updating printed materials and web information, media advertising, and support and maintenance of computer systems.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW to read as follows:

The department must assess the implementation of the working families' tax exemption in a report to the legislature to identify administrative or resource issues that require legislative action. The department must submit the report to

the finance committee of the house of representatives and the ways and means committee of the senate by December 1, 2012.

Passed by the Senate March 11, 2008.
Passed by the House March 6, 2008.
Approved by the Governor April 1, 2008.
Filed in Office of Secretary of State April 2, 2008.

CHAPTER 326

[Senate Bill 6818]

STATE EXPENDITURES—TRANSPARENCY

AN ACT Relating to transparency in state expenditures; adding a new section to chapter 44.48 RCW; adding a new section to chapter 43.88 RCW; adding a new section to chapter 28A.150 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The intent of the legislature is to make state revenue and expenditure data as open, transparent, and publicly accessible as is feasible. Increasing the ease of public access to state budget data, particularly where the data are currently available from disparate internal government sources but are difficult for the public to collect and efficiently aggregate, significantly contributes to governmental accountability, public participation, agency efficiency, and open government.

NEW SECTION. **Sec. 2.** A new section is added to chapter 44.48 RCW to read as follows:

(1) By January 1, 2009, in collaboration with the office of financial management, using existing databases and structures currently shared, the office of the legislative evaluation and accountability program committee shall establish and make available to the public a searchable state expenditure information web site. The state expenditure information web site shall provide access to current budget data, access to current accounting data for budgeted expenditures and staff, and access to historical data. At a minimum, the web site will provide access or links to the following information as data are available:

(a) State expenditures by fund or account;

(b) State expenditures by agency, program, and subprogram;

(c) State revenues by major source;

(d) State expenditures by object and subobject;

(e) State agency workloads, caseloads, and performance measures, and recent performance audits; and

(f) State agency budget data by activity.

(2) "State agency," as used in this section, includes every state agency, office, board, commission, or institution of the executive, legislative, or judicial branches, including institutions of higher education.

(3) The state expenditure information web site shall be updated periodically as subsequent fiscal year data become available, and the prior year expenditure data shall be maintained by the legislative evaluation and accountability program committee as part of its ten-year historical budget data.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.88 RCW to read as follows:

(1) The office of financial management shall make electronically available to the public a database of state agency contracts for personal services required to be filed with the office of financial management under chapter 39.29 RCW.

(2) The state expenditure information web site described in section 2 of this act shall include a link to the office of financial management database described in subsection (1) of this section.

***NEW SECTION.** Sec. 4. A new section is added to chapter 28A.150 RCW to read as follows:*

(1) Upon the release of each proposed omnibus appropriations act and final enacted budget, the legislative evaluation and accountability committee shall prepare and cause to be posted on a publicly accessible web site a presentation consisting of potential examples of the types and levels of educational programs and services supported by funding provided in the proposed or enacted omnibus appropriations act under specified allocations for the support of common schools.

(2) The purpose of the presentation created in subsection (1) of this section is to make transparent to the public, using categories and terms that are readily understood, examples of the type and level of educational programs and services supported by funding appropriated in the omnibus appropriations act under specified programs for support of the common schools. Such transparency promotes better public understanding of the state resources provided to support the common schools. The information in the presentation is for illustrative purposes only. It is not intended, nor is it to be construed, to represent how state allocations are actually used by individual school districts, nor how school districts are expected or required to expend state allocations.

(3) Each legislative evaluation and accountability program committee presentation prepared under this section shall provide estimates for the following items, based on the level of state funding appropriated in the budget bill for which the presentation is prepared and for the school year immediately following the legislative session in which the bill is considered:

(a) For the general apportionment program:

(i) Estimated state-funded class size in elementary, middle, and high school grade spans;

(ii) Average state-funded teacher salary, total teacher compensation, administrator salary, and classified staff salary;

(iii) Estimated number of state-funded staff of various classifications in a hypothetical average-sized school; and

(iv) Estimated amount per pupil for nonemployee related costs, including a breakdown of the per pupil amount by selected major categories of expenditure;

(b) For the learning assistance program, the transitional bilingual program, and the highly capable student program: Estimated hours of additional instruction per week in each program;

(c) For the special education excess cost allocation: Estimated amount per eligible student;

(d) For the promoting academic success program: Estimated hours of remediation for various types of students, hours of teacher planning time, and class size; and

(e) For the student achievement fund: Estimated amount per pupil in each category of use of the funds under RCW 28A.505.210 and estimated staffing or additional instructional time supported by the funds in a hypothetical average-sized school.

(4) Each document shall also contain a brief narrative description of how the estimates provided under subsection (3) of this section were calculated and the major assumptions behind the calculations. Estimates may be developed using documented expenditure patterns of school districts, best practices, or other sources of information.

***Sec. 4 was vetoed. See message at end of chapter.**

Passed by the Senate March 11, 2008.
Passed by the House March 7, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 4, Senate Bill 6818 entitled:

"AN ACT Relating to transparency in state expenditures."

Section 4 of this bill would have the Legislative Evaluation and Accountability Program prepare and post to the web a presentation about school funding programs and categories. The Joint Task Force on Basic Education is currently reviewing basic education funding, and will produce a recommendation for a new K-12 funding framework for consideration by the Legislature during the 2009 session. One of the criteria for the new funding system is that it be more transparent. Because the categories and cost allocations specified in Section 4 will be outdated and need to be changed very soon, I am concerned that this provision could cause more, rather than less, confusion about how the state funds K-12 education.

For these reasons, I have vetoed Section 4 of Senate Bill 6818.

With the exception of Section 4, Senate Bill 6818 is approved."

CHAPTER 327

[Second Substitute Senate Bill 6855]

ECONOMIC DEVELOPMENT—FUNDING

AN ACT Relating to dedicated funding for jobs, economic development, and local capital projects; amending RCW 43.160.020, 43.160.030, 43.160.050, 43.160.060, 43.160.070, 43.160.074, 43.160.900, 43.160.080, and 43.63A.125; reenacting and amending RCW 43.160.010 and 43.160.076; adding a new section to chapter 43.162 RCW; adding new sections to chapter 43.63A RCW; repealing RCW 43.160.100, 43.160.120, 43.160.130, 43.160.140, 43.160.150, 43.160.160, 43.160.170, 43.160.200, 43.160.210, 43.160.220, 43.160.230, 43.160.240, and 44.28.801; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.160.010 and 1999 c 164 s 101 and 1999 c 94 s 5 are each reenacted and amended to read as follows:

(1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens

remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. ((~~Strengthening the economic base through issuance of industrial development bonds, whether single or umbrella, further serves to reduce unemployment. Consolidating issues of industrial development bonds when feasible to reduce costs additionally advances the state's purpose to improve economic vitality.~~)) Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; and

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways, county roads, or city streets for industries considering locating or expanding in this state.

(((~~(a)~~))) (3) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

(((~~(b) All transportation improvements on state highways must first be approved by the state transportation commission and the community economic revitalization board in accordance with the procedures established by RCW 43.160.074 and 47.01.280.~~

~~(3)~~))) (4) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to assist development of telecommunications infrastructure that supports business development, retention, and expansion in ((~~rural natural resources impact areas and rural counties of~~)) the state.

(((~~(4)~~))) (5) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

(((~~(5)~~))) (6) The legislature finds that sharing economic growth statewide is important to the welfare of the state. ((~~Rural counties and rural natural resources impact areas do not share in the economic vitality of the Puget Sound region.~~)) The ability of ((~~these~~)) communities to pursue business and job retention, expansion, and development opportunities depends on their capacity to ready necessary economic development project plans, sites, permits, and infrastructure for private investments. Project-specific planning, predevelopment, and infrastructure are critical ingredients for economic development. ((~~Rural counties and rural natural resources impact areas generally lack these necessary tools and resources to diversify and revitalize their economies.~~)) It is, therefore, the intent of the legislature to increase the amount of funding available through the community economic revitalization board ((~~for rural counties and rural natural resources impact areas,~~)) and to authorize flexibility for available resources in these areas to help fund planning, predevelopment, and construction costs of infrastructure and facilities and sites that foster economic vitality and diversification.

Sec. 2. RCW 43.160.020 and 2004 c 252 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) "Board" means the community economic revitalization board.

(2) ((~~"Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.~~

(~~3~~))) "Department" means the department of community, trade, and economic development.

(((~~(4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.~~

~~(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.~~

~~(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.~~

(~~7~~))) (3) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(((~~(8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.~~

~~(9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.~~

~~(10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.~~

~~(11)~~)) (4) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures, and port facilities, all for the purpose of job creation, job retention, or job expansion.

(((~~(12)~~))) (5) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

(((~~(13) "Rural natural resources impact area" means:~~

~~(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (14) of this section;~~

~~(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (14) of this section; or~~

~~(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (14) of this section.~~

~~(14) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:~~

~~(a) A lumber and wood products employment location quotient at or above the state average;~~

~~(b) A commercial salmon fishing employment location quotient at or above the state average;~~

~~(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;~~

~~(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and~~

~~(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.~~))

Sec. 3. RCW 43.160.030 and 2004 c 252 s 2 are each amended to read as follows:

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter ((~~and the allocation of private activity bonds~~)).

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(6) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor.

(7) A majority of members currently appointed constitutes a quorum.

Sec. 4. RCW 43.160.050 and 1996 c 51 s 4 are each amended to read as follows:

The board may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) Adopt an official seal and alter the seal at its pleasure.

(3) Utilize the services of other governmental agencies.

(4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants.

(5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers.

(6) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.

(7) ((~~Exercise all the powers of a public corporation under chapter 39.84 RCW.~~

~~(8) Invest any funds received in connection with industrial development revenue bond financing not required for immediate use, as the board considers appropriate, subject to any agreements with owners of bonds.~~

~~(9) Arrange for lines of credit for industrial development revenue bonds from and enter into participation agreements with any financial institution.~~

~~(10) Issue industrial development revenue bonds in one or more series for the purpose of defraying the cost of acquiring or improving any industrial development facility or facilities and securing the payment of the bonds as provided in this chapter.~~

~~(11)~~)) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.

(((~~(12) Sell, purchase, or insure loans to finance the costs of industrial development facilities.~~

~~(13) Service, contract, and pay for the servicing of loans for industrial development facilities.~~

~~(14) Provide financial analysis and technical assistance for industrial development facilities when the board reasonably considers it appropriate.~~

~~(15) Collect, with respect to industrial development revenue bonds, reasonable interest, fees, and charges for making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and other evidences of indebtedness. Interest, fees, and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.~~

~~(16) Procure insurance or guarantees from any party as allowable under law, including a governmental agency, against any loss in connection with its lease agreements, loan agreements, mortgage loans, and other assets or property.~~

~~(17)~~)) (8) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter.

(((~~(18)~~))) (9) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

Sec. 5. RCW 43.160.060 and 2007 c 231 s 3 are each amended to read as follows:

The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and

the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, ((~~at least ten~~)) no more than twenty-five percent of all financial assistance ((~~provided~~)) approved by the board in any biennium ((~~shall~~)) may consist of grants to political subdivisions and federally recognized Indian tribes.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not provide financial assistance:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) ((~~For the acquisition of real property, including buildings and other fixtures which are a part of real property.~~

~~(d)~~)) For a project the primary purpose of which is to facilitate or promote gambling.

(d) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.

(2) The board shall only provide financial assistance:

(a) For ((~~those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, advanced technology, research and development, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to rural counties or rural natural resources impact areas; or (v) which substantially support the trading of goods or services outside of the state's borders.~~

~~(b) For projects which it finds~~)) a project demonstrating convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made that:

(i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted; and

(ii) Will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities((~~.~~

~~(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made~~));

(b) For a project that cannot meet the requirement of (a) of this subsection but is a project that:

(i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted;

(ii) Is part of a local economic development plan consistent with applicable state planning requirements;

(iii) Can demonstrate project feasibility using standard economic principles; and

(iv) Is located in a rural community as defined by the board, or a rural county;

(c) For site-specific plans, studies, and analyses that address environmental impacts, capital facilities, land use, permitting, feasibility, marketing, project engineering, design, site planning, and project debt and revenue impacts, as grants not to exceed fifty thousand dollars.

(3) The board shall develop guidelines for local participation and allowable match and activities.

(4) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

(5) An application must be approved by the political subdivision and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

(6) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(7) An application must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the countywide median hourly wage.

(8) The board shall prioritize each proposed project according to:

(a) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed ((~~and according~~)), but also giving consideration to the unemployment rate in the area in which the jobs would be located;

(b) The rate of return of the state's investment, ((~~that includes the~~)) including, but not limited to, the leveraging of private sector investment, anticipated job creation and retention, and expected increases in state and local tax revenues associated with the project; ((~~and~~))

(c) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(d) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements; and

(e) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

(((~~(4)~~))) (9) A responsible official of the political subdivision or the federally recognized Indian tribe shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Sec. 6. RCW 43.160.070 and 1999 c 164 s 104 are each amended to read as follows:

Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving account ((~~and the distressed county public facilities construction loan account~~)) shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter ((~~or, during the 1989-91 fiscal biennium, for economic development purposes as appropriated by the legislature~~)). The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the account((~~s~~)). ((~~The total amount of outstanding financial assistance in Pierce, King, and Snohomish counties shall never exceed sixty percent of the total amount of outstanding financial assistance disbursed by the board under this chapter without reference to financial assistance provided under RCW 43.160.220.~~))

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans, including partial forgiveness of loan principal and interest payments on projects located in rural communities as defined by the board, or rural counties ((~~or rural natural resources impact areas, as the board determines~~)). The loans shall not exceed twenty years in duration.

(3) Repayments of loans made from the public facilities construction loan revolving account under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving account. ((~~Repayments of loans made from the distressed county public facilities construction loan account under the contracts for public facilities construction loans shall be paid into the distressed county public facilities construction loan account.~~)) Repayments of loans from moneys from the new appropriation from the public works assistance account for the fiscal biennium ending June 30, 1999, shall be paid into the public works assistance account.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist.

Sec. 7. RCW 43.160.074 and 1985 c 433 s 5 are each amended to read as follows:

(1) An application to the board from a political subdivision may also include a request for improvements to an existing state highway or highways. The application is subject to all of the applicable criteria relative to qualifying types

of development set forth in this chapter, as well as procedures and criteria established by the board.

(2) Before board consideration of an application from a political subdivision that includes a request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the department of transportation ((~~commission~~)).

(3) The board may not make its final determination on any application made under subsection (1) of this section before receiving approval, as submitted or amended or disapproval from the department of transportation ((~~commission~~)) as specified in RCW 47.01.280. Notwithstanding its disposition of the remainder of any such application, the board may not approve a request for improvements to an existing state highway or highways without the approval as submitted or amended of the department of transportation ((~~commission~~)) as specified in RCW 47.01.280.

(4) The board shall notify the department of transportation ((~~commission~~)) of its decision regarding any application made under this section.

Sec. 8. RCW 43.160.076 and 1999 c 164 s 105 are each reenacted and amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter ((~~without reference to financial assistance provided under RCW 43.160.220~~)), the board shall ((~~spend~~)) approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties ((~~or rural natural resources impact areas~~)).

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties ((~~or rural natural resources impact areas~~)) are clearly insufficient to use up the ((~~seventy-five percent~~)) allocations under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties ((~~or rural natural resources impact areas~~)).

Sec. 9. RCW 43.160.900 and 1993 c 320 s 8 are each amended to read as follows:

(1) The community economic revitalization board shall ((~~report to the appropriate standing committees of the legislature biennially on the implementation of~~)) conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The ((~~report~~)) evaluations shall include information on the number of applications for community economic revitalization board assistance((~~,~~)); the number and types of projects approved((~~,~~)); the grant or loan amount awarded each project((~~,~~)); the projected number of jobs created or retained by each project((~~,~~)); the actual number and cost of jobs created or retained by each project((~~,~~)); the wages and health benefits associated with the jobs; the amount of state funds and total capital invested in projects; the number and types of businesses assisted by funded projects; the location of funded projects; the transportation infrastructure available for completed projects; the local match and local participation obtained; the number of delinquent loans((~~,~~)); and the number of project

terminations. The ((~~report~~)) evaluations may also include additional performance measures and recommendations for programmatic changes. ((~~The first report shall be submitted by December 1, 1994.~~))

(2)(a) By September 1st of each even-numbered year, the board shall forward its draft evaluation to the Washington state economic development commission for review and comment, as required in section 10 of this act. The board shall provide any additional information as may be requested by the commission for the purpose of its review.

(b) Any written comments or recommendations provided by the commission as a result of its review shall be included in the board's completed evaluation. The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. The initial evaluation must be submitted by December 31, 2010.

***NEW SECTION.** Sec. 10. A new section is added to chapter 43.162 RCW to read as follows:*

The Washington state economic development commission shall review and provide written comments and recommendations for inclusion in the biennial evaluation conducted by the community economic revitalization board under RCW 43.160.900.

***Sec. 10 was vetoed. See message at end of chapter.**

Sec. 11. RCW 43.160.080 and 1998 c 321 s 30 are each amended to read as follows:

There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter((~~, except moneys of the board collected in connection with the issuance of industrial development revenue bonds and moneys deposited in the distressed county public facilities construction loan account under RCW 43.160.220,~~)) and any moneys appropriated to it by law((~~: PROVIDED, That seventy-five percent of all principal and interest payments on loans made with the proceeds deposited in the account under section 901, chapter 57, Laws of 1983 1st ex. sess. shall be deposited in the general fund as reimbursement for debt service payments on the bonds authorized in RCW 43.83.184~~)). Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW.

***NEW SECTION.** Sec. 12. (1) The legislature recognizes that although many regions of the state are thriving, there are still distressed communities throughout rural and urban Washington where capital investments in community services initiatives could create vibrant local business districts and prosperous neighborhoods.*

(2) The legislature also recognizes that nonprofit organizations provide a variety of community services that serve the needs of the citizens of Washington, including many services implemented under contract with state agencies. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities.

(3) The legislature finds that providing these capital investments is critical for the economic health of local distressed communities, helps build strong relationships with the state, and expands life opportunities for underserved, low-income populations.

***Sec. 12 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.63A RCW to read as follows:

The definitions in this section apply throughout RCW 43.63A.125, this section, and sections 14 and 16 of this act unless the context clearly requires otherwise.

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

(2) "Distressed community" means: (a) A county that has an unemployment rate that is twenty percent above the state average for the immediately previous three years; (b) an area within a county that the department determines to be a low-income community, using as guidance the low-income community designations under the community development financial institutions fund's new markets tax credit program of the United States department of the treasury; or (c) a school district in which at least fifty percent of local elementary students receive free and reduced-price meals.

(3) "Nonprofit organization" means an organization that is tax exempt, or not required to apply for an exemption, under section 501(c)(3) of the federal internal revenue code of 1986, as amended.

(4) "Technical assistance" means professional services provided under contract to nonprofit organizations for feasibility studies, planning, and project management related to acquiring, constructing, or rehabilitating nonresidential community services facilities.

NEW SECTION. **Sec. 14.** A new section is added to chapter 43.63A RCW to read as follows:

The building communities fund account is created in the state treasury. The account shall consist of legislative appropriations and gifts, grants, or endowments from other sources as permitted by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for capital and technical assistance grants as provided in RCW 43.63A.125.

Sec. 15. RCW 43.63A.125 and 2006 c 371 s 233 are each amended to read as follows:

(1) The department shall establish ((~~a competitive process to solicit proposals for and prioritize projects that assist nonprofit organizations in~~)) the building communities fund program. Under the program, capital and technical assistance grants may be made to nonprofit organizations for acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential ((~~social~~)) community services, including social service centers and multipurpose community centers, including those serving a distinct or ethnic population. Such facilities must be located in a distressed community or serve a substantial number of low-income or disadvantaged persons.

(2) The department shall establish a competitive process to ((~~prioritize~~)) solicit and evaluate applications for the ((~~assistance~~)) building communities fund program as follows:

(a) The department shall conduct a statewide solicitation of project applications from ((~~local governments,~~)) nonprofit organizations((~~, and other entities, as determined by the department~~)).

(b) The department shall evaluate ((~~and rank~~)) applications in consultation with a citizen advisory committee using objective criteria. ((~~At a minimum~~)) To be considered qualified, applicants must demonstrate that the ((~~requested assistance~~)) proposed project:

(i) Will increase the range, efficiency, or quality of the ((~~social~~)) services ((~~it provides~~)) provided to citizens;

(ii) Will be located in a distressed community or will serve a substantial number of low-income or disadvantaged persons;

(iii) Will offer a diverse set of activities that meet multiple community service objectives, including but not limited to: Providing social services; expanding employment opportunities for or increasing the employability of community residents; or offering educational or recreational opportunities separate from the public school system or private schools, as long as recreation is not the sole purpose of the facility;

(iv) Reflects a long-term vision for the development of the community, shared by residents, businesses, leaders, and partners;

(v) Requires state funding to accomplish a discrete, usable phase of the project;

(vi) Is ready to proceed and will make timely use of the funds;

(vii) Is sponsored by one or more entities that have the organizational and financial capacity to fulfill the terms of the grant agreement and to maintain the project into the future;

(viii) Fills an unmet need for community services;

(ix) Will achieve its stated objectives; and

(x) Is a community priority as shown through tangible commitments of existing or future assets made to the project by community residents, leaders, businesses, and government partners.

(c) The evaluation ((~~and ranking~~)) process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project, except, under exceptional circumstances, the department may reduce the amount of nonstate match required. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

((~~(b) The department shall submit a prioritized list of recommended projects to the governor and the legislature in the department's biennial capital budget request beginning with the 2001-2003 biennium and thereafter. For the 1999-2001 biennium, the department shall conduct a solicitation and ranking process, as described in (a) of this subsection, for projects to be funded by appropriations provided for this program in the 1999-2001 capital budget. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project.~~

~~The total amount of recommended state funding for projects on a biennial project list shall not exceed ten million dollars. Except for the 1999-2001 biennium, the department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.~~

~~(c)~~)) (d) The department may not set a monetary limit to funding requests.

(3) The department shall submit annually to the governor and the legislature in the department's capital budget request an unranked list of the qualified eligible projects for which applications were received. The list must include a description of each project, its total cost, and the amount of state funding requested. The appropriate fiscal committees of the legislature shall use this list to determine building communities fund projects that may receive funding in the capital budget. The total amount of state capital funding available for all projects on the annual list shall be determined by the capital budget beginning with the 2009-2011 biennium and thereafter. In addition, if cash funds have been appropriated, up to three million dollars may be used for technical assistance grants. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(4) In addition to the list of qualified eligible projects, the department shall submit to the appropriate fiscal committees of the legislature a summary report that describes the solicitation and evaluation processes, including but not limited to the number of applications received, the total amount of funding requested, issues encountered, if any, and any recommendations for process improvements.

(5) After the legislature has approved a specific list of projects in law, the department shall develop and manage appropriate contracts with the selected applicants; monitor project expenditures and grantee performance; report project and contract information; and exercise due diligence and other contract management responsibilities as required.

(6) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

NEW SECTION. **Sec. 16.** A new section is added to chapter 43.63A RCW to read as follows:

(1) The department shall develop accountability and reporting standards for grant recipients. At a minimum, the department shall use the criteria listed in RCW 43.63A.125(2)(b) to evaluate the progress of each grant recipient.

(2) Beginning January 1, 2011, the department shall submit an annual report to the appropriate committees of the legislature, including:

(a) A list of projects currently under contract with the department under the building communities fund program; a description of each project, its total cost, the amount of state funding awarded and expended to date, the project status, the number of low-income people served, and the extent to which the project has met the criteria in RCW 43.63A.125(2)(b); and

(b) Recommendations, if any, for policy and programmatic changes to the building communities fund program to better achieve program objectives.

NEW SECTION. **Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 43.160.100 (Status of board) and 1984 c 257 s 3;

(2) RCW 43.160.120 (Commingling of funds prohibited) and 1984 c 257 s 5;

(3) RCW 43.160.130 (Personal liability) and 1984 c 257 s 6;

(4) RCW 43.160.140 (Accounts) and 1987 c 422 s 8 & 1984 c 257 s 7;

(5) RCW 43.160.150 (Faith and credit not pledged) and 1984 c 257 s 8;

(6) RCW 43.160.160 (Security) and 1984 c 257 s 9;

(7) RCW 43.160.170 (Special reserve account) and 1984 c 257 s 10;

(8) RCW 43.160.200 (Economic development account—Eligibility for assistance) and 2004 c 252 s 4, 1999 c 164 s 107, 1996 c 51 s 9, & 1995 c 226 s 16;

(9) RCW 43.160.210 (Distressed counties—Twenty percent of financial assistance) and 1998 c 321 s 31 & 1998 c 55 s 5;

(10) RCW 43.160.220 (Distressed county public facilities construction loan account) and 1998 c 321 s 9;

(11) RCW 43.160.230 (Job development fund program) and 2007 c 231 s 4 & 2005 c 425 s 2;

(12) RCW 43.160.240 (Job development fund program—Maximum grants) and 2005 c 425 s 3; and

(13) RCW 44.28.801 (State public infrastructure programs and funds—Inventory—Report) and 2006 c 371 s 229 & 2005 c 425 s 5.

NEW SECTION. **Sec. 18.** Sections 1, 2, 4 through 11, and 17 of this act take effect July 1, 2009.

NEW SECTION. **Sec. 19.** Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 12, 2008.

Passed by the House March 12, 2008.

Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 10 and 12, Second Substitute Senate Bill 6855 entitled:

"AN ACT Relating to dedicated funding for jobs, economic development, and local capital projects."

This bill expands upon the existing Community Services Facilities program by creating the Building Communities Fund Account in the State Treasury. I am very supportive of the policy underlying this bill.

Section 10 gives responsibility to the Economic Development Commission that it already has and this is not something the Commission requested. Reiterating it in this legislation is unnecessary.

Therefore, I am vetoing Section 10 to avoid any expectations about requirements either on the Community Economic Development Board or the Economic Development Commission.

I support the concept of expanding the existing Community Services Facilities Program, but it is unnecessary to outline legislative findings in this legislation. Therefore, I am vetoing Section 12.

For these reasons, I have vetoed Sections 10 and 12 of Second Substitute Senate Bill 6855.

With the exception of Sections 10 and 12, Second Substitute Senate Bill 6855 is approved."

CHAPTER 328

[Engrossed Substitute House Bill 2765]

CAPITAL BUDGET—SUPPLEMENTAL APPROPRIATIONS

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.155.050, 79.64.020, 40.14.024, 36.22.175, 43.09.282, 67.40.040, 79.17.010, 43.19.501, and 43.99N.060; reenacting and amending RCW 48.02.190, 70.105D.070, and 79.17.020; amending 2007 c 520 ss 1020, 1030, 1034, 1031, 1035, 1036, 1041, 1039, 1021, 1042, 1045, 1048, 1050, 1049, 1058, 1065, 1066, 1067, 1073, 1068, 1075, 1090, 2007, 2021, 2037, 2029, 2032, 2042, 2045, 2061, 2054, 2056, 2058, 2075, 3001, 3019, 3036, 3037, 3045, 3046, 3048, 3050, 3049, 3060, 3072, 3087, 3084, 3092, 3095, 3102, 3134, 3146, 3144, 3155, 3161, 3175, 3179, 3187, 3198, 3211, 3204, 3214, 3219, 4004, 5008, 5010, 5014, 5016, 5017, 5086, 5100, 5117, 5118, 5119, 5128, 5145, 5217, 5255, 5275, 6013, 6032, and 6016 (uncodified); adding new sections to 2007 c 520 (uncodified); creating new sections; repealing 2007 c 520 s 6006 (uncodified); providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A supplemental capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period beginning with the effective date of this act and ending June 30, 2009, out of the several funds specified in this act.

PART 1
GENERAL GOVERNMENT

NEW SECTION. **Sec. 1001.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

K-12 Inventory Pilot Project (08-2-850)

The appropriation in this section is subject to the following conditions and limitations:

(1) Funding is provided solely for the joint legislative audit and review committee to define and develop a pilot facility condition and inventory system for K-12 public school facilities. In developing and conducting the pilot, the joint legislative audit and review committee shall seek input from the superintendent of public instruction, participating school districts, the construction services group within educational service district 112, the state board for community and technical colleges, the office of financial management, the department of information services, and other entities as determined by the joint legislative audit and review committee. It is the intent of the legislature to build on the experience of the community and technical college capital facility

assessment and inventory process, which includes an independent condition assessment of facilities, to establish a baseline of basic public school facility building data and information. It is also the intent of the legislature that once developed, a facility condition and inventory system must be housed in and operated by the office of the superintendent of public instruction for school districts statewide.

(2) The joint legislative audit and review committee shall select up to ten public school districts to participate in the pilot. The school districts must represent a cross-section of large and small districts, urban and rural districts, districts with facilities of varying age and condition, districts with varying fiscal capacity, and at least one district that serves as the host for a skills center.

(3) The facility condition and inventory system must include facility and site information necessary for facility assessment and maintenance. The facility condition and inventory system must also inform statewide policy options related to: (a) Class size; (b) all-day kindergarten; (c) specialized educational spaces, including math and science classrooms and labs, as well as other specialized spaces; (d) environmental health and safety improvements; (e) joint use of school facilities beyond the traditional school day; (f) high performance buildings; (g) use of portables; and (h) other policy options as identified by the joint legislative audit and review committee.

(4) Data elements in the facility condition and inventory system may include, but are not limited to, facility location, facility condition including health and safety considerations, type, size, current use, enrollment and space by grade level, information on specialized educational spaces, functionality of space, energy efficiency information, date and cost of original construction, date and cost of any major remodeling or renovation, operations and maintenance information and expenditures, and other data elements as determined by the joint legislative audit and review committee.

(5) By January 1, 2009, the joint legislative audit and review committee shall provide a report to the appropriate legislative fiscal committees on the following: (a) A proposed scope of work for the facility condition and inventory system pilot project; (b) identification of current sources of school district facility information and where the data resides; (c) recommended criteria for evaluating school facilities; (d) potential school district participants; (e) an implementation plan for the pilot group of school districts; and (f) a review of other states' scope and use of public school facility condition and inventory information.

(6) By January 1, 2010, the joint legislative audit and review committee shall submit findings and recommendations on the pilot program to the appropriate legislative fiscal committees. At a minimum, the final report must include the following: (a) A summary of data collected and analyzed for each participating school district; (b) an analysis of study and survey data for several participating school districts compared to an independent facility assessment; (c) a cost/benefit analysis of expanding the pilot to school districts statewide, including potential timelines; (d) possible methods and frequency for collecting, inventorying, updating, and sharing facility information by the office of the superintendent of public instruction; (e) possible interaction of a facility condition and inventory system with the statewide first responder building mapping system and other data collection efforts that are ongoing, including

student educational data managed by the office of the superintendent of public instruction; (f) methods that allow for the efficient transfer of information between school districts and the facility condition and inventory system; and (g) other recommendations as determined by the joint legislative audit and review committee.

Appropriation:
Education Construction Account—State $230,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $230,000

Sec. 1002. 2007 c 520 s 1020 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing Assistance, Weatherization, and Affordable Housing (06-4-851)

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

(1) $7,800,000 of the reappropriation from the Washington housing trust account is provided solely for the backlog, as defined by the department, of projects determined by the department to be eligible under chapter 43.185 or 43.185A RCW.

(2) $4,500,000 of the reappropriation from the Washington housing trust account is provided solely for weatherization administered through the energy matchmakers program.

(3) $850,000 of the reappropriation from the Washington housing trust account is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(4) $500,000 of the reappropriation from the Washington housing trust account is provided solely for shelters, transitional housing, or other housing facilities for victims of domestic violence.

(5) $3,000,000 of the reappropriation from the Washington housing trust account is provided solely for farm worker housing projects and programs to meet the full spectrum of housing needs of Washington's farm workers and their families. The department shall work with stakeholders representing a diversity of farm worker housing interests to develop a strategic plan in implementing this provision.

(6) $200,000 of the reappropriation from the Washington housing trust account is provided solely for the implementation and management of a manufactured/mobile home landlord-tenant ombudsman conflict resolution program by the office of mobile home affairs as generally described in section 3, chapter 429, Laws of 2005. The office of mobile home affairs shall also determine the number of complaints made to the department since May of 2005 that, in the best estimate of the department, do in fact present violations of chapter 59.20 RCW and shall produce a summary of the number and types of complaints. The office of mobile home affairs shall also continue to maintain and update a database with information about all mobile home parks and

manufactured housing communities. The office of mobile home affairs shall provide a report regarding the activities and results of the program to the appropriate committees of the house of representatives and the senate by December 31, 2007.

(7) $150,000 of the appropriation from the Washington housing trust account is provided solely for a program to assist individuals and communities in the home-buying process, including, but not limited to: Homebuyer education classes, credit and budget counseling, financial literacy training, and down payment assistance programs. The department shall contract with a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code or similar successor provision that has experience and expertise in addressing language access barriers in the home-buying process to implement this program.

(8) The reappropriation in this section must be included in the calculation of annual funds available for determining the administrative costs of the department, which shall not exceed five percent of the annual funds available for the housing assistance program and the affordable housing program as authorized under RCW 43.185.050 and 43.185A.030.

Reappropriation:
Washington Housing Trust Account—State $16,502,000
((~~Homeless Families Services Account—State . . . . . $4,000,000~~
~~Subtotal Reappropriation . . . . . $20,502,000~~))
$16,502,000

Prior Biennia (Expenditures) $499,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$21,001,000~~))
$17,001,000

Sec. 1003. 2007 c 520 s 1030 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Drinking Water Assistance Program (07-4-004)

Appropriation:
Drinking Water Assistance Account—State . . . . . ((~~$7,200,000~~))
$10,800,000
Drinking Water Assistance Repayment Account—State $21,100,000
Subtotal Appropriation . . . . . ((~~$28,300,000~~))
$31,900,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $155,400,000
TOTAL . . . . . ((~~$183,700,000~~))
$187,300,000

Sec. 1004. 2007 c 520 s 1034 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Public Works Trust Fund (07-4-005)

The appropriation in this section is subject to the following conditions and limitations:

(1) Up to $10,000,000 of the appropriation is for the public works board, in consultation with the house of representatives capital budget committee, the senate ways and means committee, and the office of financial management, to implement an infrastructure interest rate buy-down pilot program. The purpose of the program is to demonstrate options for the most efficient use of the state's investment in local infrastructure by funding more projects at an accelerated rate.

(2) The pilot program must provide grants to local governments to offset the difference in interest rates between one-half of one percent, as offered by the public works board, and the interest rate the local government receives on issuance of their own debt.

(3) The pilot program must include the following projects:

(a) Those with high scores from the list of projects that were not funded, as identified in the public works board 2008 legislative report;

(b) Projects located in economically distressed areas or that may be significantly impacted by a possible upcoming recession; and

(c) Projects located in jurisdictions that have unused debt capacity and are willing and able to acquire additional debt to finance the proposed infrastructure project.

Appropriation:

Public Works Assistance Account—State $327,000,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $1,400,000,000

TOTAL $1,727,000,000

Sec. 1005. 2007 c 520 s 1031 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Housing Assistance, Weatherization, and Affordable Housing (07-4-009)

The appropriation in this section is subject to the following conditions and limitations:

(1) $9,000,000 of the appropriation is provided solely for weatherization administered through the energy matchmakers program.

(2) $5,000,000 of the appropriation is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(3) $2,500,000 of the appropriation is provided solely for grants to nonprofit organizations and public housing authorities for revolving loan, self-help housing programs for low and moderate income families.

(4) $1,000,000 of the appropriation is provided solely for shelters, transitional housing, or other housing facilities for victims of domestic violence.

(5) $14,000,000 of the appropriation is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers. The operation of the facilities built under this section shall be in compliance with 8 U.S.C. Sec. 1342. The department shall work with the farmworker housing advisory committee to

prioritize funding of projects to the areas of highest need. Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects. Any of this appropriation that is not obligated by June 30, 2009, shall be added to the amount appropriated for the general pool of projects.

(6) $5,000,000 of the appropriation is provided solely for the development of emergency shelters and transitional housing opportunities for homeless families with children.

(7) $4,000,000 of the appropriation is provided solely for the development of farm infrastructure improvements. Any of this appropriation that is not obligated by June 30, 2009, shall be added to the amount appropriated for the general pool of projects.

(8) $1,500,000 of the appropriation is provided solely for the development of housing for low-income or homeless Native Americans. The department shall work with Native American tribes, not-for–profit organizations with experience in serving Native American populations, and Native American housing development organizations to prioritize projects located in the areas of highest identified need.

(9) $4,000,000 of the appropriation is provided solely for loans and grants to eligible organizations to purchase manufactured/mobile home communities with the intent of preserving the communities for affordable housing.

(10) Up to $10,000,000 of the appropriation is for the creation and development of low-income housing within areas declared disasters by the governor after November 2007.

(11) $2,000,000 of the appropriation from the state taxable building construction account is provided solely for the development or preservation of farmworker housing for migrant and seasonal farmworkers located on private farms. This appropriation is subject to appropriate agreements to protect the public investment. Any of this appropriation that is not obligated by June 30, 2009, shall be added to the amount appropriated for the general pool of projects.

(12) The appropriations in this section from the state building construction account shall be distributed as grants.

(13) $250,000 of the appropriation from the Washington housing trust account is provided solely to the city of Burien for housing related purposes.

(14) The appropriation in this section shall not be used for the administrative costs of the department. The amount of the appropriation shall be included in the calculation of annual funds available for determining the administrative costs authorized under RCW 43.185.050.

((~~(11)~~)) (15) Within available funding provided in this section, the department shall prepare an inventory of housing assistance programs. The inventory shall include all state funded programs, the housing finance commission programs, all programs funded by local governments and housing authorities, including a description of expenditures from fees and taxes specifically authorized by state law for housing assistance and homeless programs, all property tax and sales tax provisions that are intended to support housing assistance programs, and all federally funded housing assistance programs provided in the state. The inventory shall include a description of the program, biennial appropriation and expenditure levels since the 1999-2001 biennium through the 2007-2009 biennium, a description of eligibility criteria and the amount of benefit provided per unit or per family, and the number of

units or families assisted. The department shall coordinate with the joint legislative audit and review committee to reduce duplicative efforts that may be required by legislation.

(16)(a) $10,000,000 of the appropriation is provided solely for the department to contract with the Washington state housing finance commission to provide grants or loans to eligible organizations, described under RCW 43.185A.040, to purchase land or real property for affordable housing and community facilities preservation or development in rapidly gentrifying neighborhoods, redevelopment areas, or communities with a significant low-income population that is threatened with displacement by such gentrification. Loans or grants may be made to purchase land or real property for the preservation or development of affordable housing or community facilities, including reasonable costs and fees. The Washington state housing finance commission's review and evaluation of projects for loans and grants must include, but is not limited to the following: (i) Consideration of mobile home parks facing closure; (ii) properties in neighborhoods in King county that are facing gentrification or redevelopment; and (iii) properties located in the city of Spokane that are facing the threat of displacing low-income tenants due to the loss of affordable housing rental units. The Washington state housing finance commission, with approval from the department, may adopt guidelines and requirements that are necessary to administer the affordable housing and community facilities rapid response program. A loan recipient must preserve affordable rental housing acquired or developed under this section as affordable housing for a minimum of thirty years. Interest rates on loans made under this section may be as low as zero percent but may not exceed three percent. All loan repayments must be deposited into the Washington housing trust account and accounted for separately from other funds in the account.

(b) By December 1, 2008, the Washington state housing finance commission shall report to the department and the appropriate committees of the legislature: (i) The number of loans that were made in the program; (ii) for what purposes the loans were made; (iii) to whom the loans were made; and (iv) when the loans are expected to be paid back.

(17) Up to $10,000,000 of the appropriation is for the department to contract with the Washington state housing finance commission to administer the facilitation of nonprofit entities' use of tax-exempt multifamily bonds issued by the Washington state housing finance commission.

(18)(a) $100,000 of the appropriation from the Washington housing trust account is provided solely for the department to work in consultation with the affordable housing advisory board and representatives from nonprofit housing development organizations and affordable housing advocacy groups in the state to:

(i) Identify and analyze all costs associated with affordable housing development projects financed through the Washington housing trust fund under chapters 43.185 and 43.185A RCW, which may include, but are not limited to, costs associated with legal and architectural services, permitting and impact fees, land acquisition, and general construction costs;

(ii) Make recommendations for strategies, which must include recommendations for changes to public policy and department procedures, to reduce the costs identified in (a)(i) of this subsection; and

(iii) Make recommendations for potential performance measures appropriate for each strategy identified.

(b) In developing recommendations for strategies to reduce costs, the department shall analyze and address the fiscal impact of public policies of the state and of local governments, Washington housing trust fund policies, and general market forces on affordable housing development.

(c) The department shall report its findings and recommendations to the governor and to the appropriate committees of the legislature by September 30, 2009.

Appropriation:
State Taxable Building Construction Account—State. $130,000,000
State Building Construction Account—State $56,700,000
Washington Housing Trust Account—State $13,300,000
Subtotal Appropriation $200,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs). $560,000,000
TOTAL . . . . . ((~~$690,000,000~~))
$760,000,000

Sec. 1006. 2007 c 520 s 1035 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
Rural Washington Loan Fund (07-4-008)

Appropriation:
Rural Washington Loan Account—State. . . . . ((~~$4,127,000~~))
$2,027,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs). $16,508,000
TOTAL . . . . . ((~~$20,635,000~~))
$18,535,000

Sec. 1007. 2007 c 520 s 1036 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT
Youth Recreational Facilities Grants (07-4-003)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is subject to the provisions of RCW 43.63A.135.

(2) The appropriation is provided solely for the following list of projects:

Projects	**Location**	**Recommendation**
YMCA of the inland northwest	Spokane	$800,000
Boys and girls clubs of south Puget Sound	Lakewood	$300,000
YMCA of Snohomish county	Mukilteo	$385,000
YMCA of Snohomish county	Everett	$800,000

Boys and girls club of south Puget Sound	Gig Harbor	$600,000
Toutle river ranch	Longview	$525,000
Boys and girls club of Bellevue	Bellevue	$800,000
YMCA of Tacoma-Pierce county	Gig Harbor	$800,000
Wenatchee valley YMCA	Wenatchee	$213,000
YMCA of greater Seattle	Seattle	$250,000
Maple Valley community center	Maple Valley	$100,000
Boys and girls clubs of King county	Seattle	$618,000
Filipino community of Seattle	Seattle	$146,000
Boys and girls clubs of King county	Seattle	$800,000
Ferndale boys and girls club	Ferndale	$863,000
((~~Tacoma community center~~)) Boys and girls club of south Puget Sound	Tacoma	$800,000
Mukilteo boys and girls club	Mukilteo	$250,000
Total		**$9,050,000**

Appropriation:

State Building Construction Account—State $9,050,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $32,000,000
TOTAL $41,050,000

Sec. 1008. 2007 c 520 s 1041 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Local and Community Projects (08-4-001)

The appropriation in this section is subject to the following conditions and limitations:

(1) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement shall not apply to appropriations for preconstruction activities or appropriations whose sole

purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(5) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(2)(c).

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The appropriation provided in this section for the bridge for kids project shall not be released until the department obtains a report from the project sponsor updating the cost of the project and the current fund raising plan.

(8) ((~~Funding for preconstruction activities for the Camas and Washougal community and recreation center is contingent on voter approval of a metropolitan park district.~~

~~(9)~~)) The appropriation provided in this section for the Fox theater shall be provided only under an agreement that the theater shall retain its current name as the Fox theater.

(((~~(10)~~))) (9) The appropriation in this section for the life support and emergency medical services infrastructure build-out project is provided solely for emergency medical services and medical care infrastructure consistent with the adopted mission, goals, and capital plan of the 501(c)(3) life support.

(((~~(11) The port of Grays Harbor project is a loan that is subject to the provisions of chapter 171, Laws of 2006.~~

~~(12)~~)) (10) The appropriation is provided solely for the following list of projects:

Project Name	Amount
800 MhZ interoperability public safety communication	$1,000,000
Aberdeen union gospel mission	$562,000
Arts west playhouse and gallery	$150,000
Ashford cultural center and mountaineering museum	$800,000
Asian counseling/referral services	$2,000,000
((~~Aviation high school~~	~~$275,000~~))
Ballard corners park	$125,000
Beaver mitigation of Little Spokane river	$75,000
Benton City food bank	((~~$200,000~~)) $350,000
Bethel community center	$1,000,000
Blueberry park improvements	$5,000
Bothell crossroads/state route 522 realignment - land acquisition and preconstruction activities	$7,000,000
Bowen field	$500,000
Bremerton downtown economic revitalization projects	$5,000,000
Bridge for kids	$500,000

Burbank water improvement	$1,621,000
Burien town square	$1,600,000
Camp kilworth land acquisition - Federal Way	$1,100,000
Cannon house	$750,000
Chambers creek pedestrian bridge	(($~~$1,000,000~~$~~)) $2,400,000
Chehalis middle school track improvement	$350,000
Chehalis veterans wall of honor security enclosure	$25,000
Chelan county public utility district monitor domestic water system	$800,000
Children's hospital	$2,500,000
Cities of Camas and Washougal community/recreation center preconstruction activities	$500,000
City of Everett - senior center expansion and upgrade	$400,000
City of Everett minor league baseball - aquasox	$433,000
City of Kent event center	$3,000,000
City of Mount Vernon downtown and waterfront flood control	$1,000,000
City of Puyallup riverwalk trail project	$600,000
City of Tacoma minor league baseball - rainiers	$2,500,000
City of Yakima minor league baseball	$594,000
Civil war cemetery near volunteer park	$5,000
Columbia Springs environmental learning center preconstruction or construction activities	$200,000
Confluence project	(($~~$500,000~~$~~)) $1,000,000
Counter balance park	$100,000
Coupeville covered play area	$113,000
Covered bridge park land acquisition (Grays river)	$90,000
Cowlitz drug treatment center	$580,000
Darrington water system improvements	$100,000
Dawson place child advocacy center land acquisition and renovation	$650,000
Daybreak star in Discovery park	$300,000
Dining car historic preservation	$50,000
Discovery park - Fort Lawton	$700,000
Duwamish education center	$2,000,000
Duwamish longhouse	$275,000
Eatonville family park	$200,000
Evergreen school district health and biosciences academy	$1,000,000
Federal Way little league field lighting	$50,000
Ferndale boys and girls club - urgent needs and preconstruction activities	$200,000
Fish lake trail	$1,000,000
Fort Dent sewer	$450,000
Foss waterway	(($~~$1,000,000~~$~~)) $1,300,000
Fox theater	$2,000,000
Friends of hidden river preconstruction activities	$675,000

Goodwill of Tacoma	$1,500,000
Granite Falls museum	$30,000
High Point neighborhood center in West Seattle	$1,000,000
Highline school district noise mitigation	(($~~$3,500,000~~$)) $5,000,000
Hill ward building removal	$550,000
Innovative services northwest	$1,900,000
Institute for community leadership	$700,000
Jewish federation of greater Seattle	$900,000
Kent alliance center	$500,000
Kirkland public safety campus land acquisition and preconstruction activities	$750,000
Kitsap SEED	$1,100,000
Klickitat law enforcement firing range	$20,000
Kruckeberg botanical garden	$150,000
Lake Stevens civic center	$800,000
Lake Stevens senior center	(($~~$200,000~~$)) $300,000
Lake Waughop/department of ecology aquatic weeds	$50,000
Library connection at greenbridge	$200,000
Life support and emergency medical services infrastructure build-out	$2,700,000
Lions club renovation	$160,000
Long lake nutrient reduction	$300,000
Loon lake wood waste removal pilot study	$350,000
Lucy Lopez center land acquisition	$750,000
Maple Valley lake wilderness lodge and conference center	$1,500,000
Maple Valley legacy site planning and infrastructure development	$3,000,000
McCaw hall	$2,000,000
McDonald park	$150,000
Mercer slough environmental center	$1,500,000
Mill creek senior center	$150,000
Mirabeau Point children's universal park	$800,000
Mobius	(($~~$800,000~~$)) $1,900,000
Monroe rotary field	$700,000
Morning star cultural center	$300,000
Mountains to sound - SR18/I90 interchange	$500,000
Nisei veterans committee	$250,000
NORCOM public safety communication	$750,000
Nordic heritage museum preconstruction activities	$1,500,000
Northwest African American museum	$650,000
Northwest harvest	$3,000,000
Northwest stream center	$300,000
Oak Harbor dredging preconstruction activities	$59,000
Oak Harbor veterans memorial	$50,000
Okanogan Valley equestrian and cultural heritage center	$4,000,000
Palouse street safety improvements	$210,000

Performing arts center eastside preconstruction activities	((~~$2,000,000~~)) $2,500,000
Perry technical institute hanger	$250,000
Pike Place market	$1,070,000
Port of Benton transloader (railex)	$1,000,000
((~~Port of Grays Harbor~~	~~$2,500,000~~))
Port of Walla Walla wine incubator	$500,000
Poulsbo marine science center floating classroom	$100,000
Prime time repairs (terminally ill children)	$300,000
Puyallup town square	$200,000
Rainier lifelong learning center	$200,000
Richland Babe Ruth field complex	$1,000,000
Seatac World War I memorial plaza	$200,000
Seattle art museum	$1,250,000
Seattle children's play garden	$332,000
Seattle Chinese garden	$500,000
Shoreline YMCA	$800,000
Simon youth foundation resource center	$150,000
Skagit recreation and event center	$1,000,000
Snoqualmie railway history preconstruction activities	$600,000
Somerset village - Snohomish Y	$200,000
South Tacoma community center	((~~$700,000~~)) $1,200,000
Spokane county minor league baseball - Indians	$2,000,000
Spokane Valley community center and foodbank	$260,000
Spokane YWCA/YMCA joint project	((~~$2,500,000~~)) $3,500,000
Springwood youth center	$500,000
SR 395/court street pedestrian overpass	$400,000
Suquamish inviting house construction	$1,000,000
Tacoma narrows bridge lights	$1,500,000
Tonasket viewing platform	$100,000
Tanbara clinic - East Tacoma community	$850,000
The Northwest maritime center	$2,250,000
The Tri Cities minor league baseball	$666,000
Thurston county small business incubator	$750,000
Tokeland/North Cove water tank for fire	$10,000
Town square grid - drexler drive	$750,000
Tukwila southcenter parkway infrastructure	$4,000,000
Turning point domestic violence shelter	$700,000
University Place town square	$1,000,000
VaHalla hall	$750,000
Vancouver national historic reserve	$750,000
Vernetta Smith Chehalis timberland library	$500,000
Waitsburg flood control feasibility report	$29,000
Walla Walla county health center annex	$100,000
White Center heights park	$500,000
White Salmon water improvement	$1,500,000

Willapa harbor community center	$300,000
Wing-It productions historic theater	$20,000
Washington State University/Shoreline Community College zero energy house	$200,000
Yakima domestic violence shelter	$200,000
Yakima downtown futures initiative phase 3	$1,000,000
((~~YMCA of Snohomish county: Ebey Island project~~	~~$2,200,000~~))
Total	((~~$132,619,000~~)) $134,694,000

Appropriation:
State Building Construction Account—State . . . . . ((~~$132,619,000~~)) $134,694,000
Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$132,619,000~~)) $134,694,000

Sec. 1009. 2007 c 520 s 1039 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Innovation Partnership Zones (08-2-003)

The appropriation in this section is subject to the following conditions and limitations: The state will designate unique areas of the state as innovation partnership zones, where globally competitive companies, research institutions, and advanced training are creating special competitive advantages for the state. From among the innovation partnership zones, using a competitive process based on need, estimated economic impact, geographic diversity, and local matches, ((~~five~~)) six zones or projects will be selected to receive funding. The appropriation in this section is provided solely for shared telecommunications within the zone, shared infrastructure and facilities, long-term capital purchases, and up to 10 percent for zone administration through the locally-designated innovation partnership zone administrator. It is the intent of the legislature that innovation partnership zone grants should consider the commercialization of inventions and innovations.

Appropriation:
State Building Construction Account—State $5,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $5,000,000

Sec. 1010. 2007 c 520 s 1021 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Job/Economic Development Grants (06-4-950)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is subject to the project list in section 107, chapter 371, Laws of 2006.

(2) $1,000,000 of the reappropriation for the Pacific Northwest national labs campus infrastructure project is provided solely for giga-pop infrastructure.

(3) ((~~$5,000,000~~)) $2,200,000 of the reappropriation is provided solely for military communities infrastructure projects. Military communities infrastructure projects shall include:

(a) Grants to counties and cities for the purchase of development easements and the purchase of real property in fee simple to restrict the use of accident potential zones and clear zones. The office of financial management shall establish a competitive process for selecting projects to receive the grants. Final allocation of these grants shall be at the discretion and with the approval of the director of the office of financial management.

The grants are subject to the following conditions:

(i) The county or city must be subject to and in compliance with RCW 36.70A.530;

(ii) The grants may not be used to remove encroachments into these zones allowed by county or city zoning or permitting actions;

(iii) The county or city must have an encroachment prevention plan preventing future encroachment into these zones; and

(iv) The grant provided by the state must not exceed one-third of the project cost with funds from local and federal sources providing the balance of the funds.

(b) Up to $481,000 of the reappropriation is provided solely for improvements to a military department site on Fairchild air force base.

Reappropriation:
Public Works Assistance Account—State . . . . . ((~~$31,481,000~~)) $28,681,000

Prior Biennia (Expenditures) $18,519,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$50,000,000~~)) $47,200,000

NEW SECTION. **Sec. 1011.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Skagit County Digester (08-4-951)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for a grant for the Skagit county digester project. This appropriation is subject to appropriate agreements to protect the public investment.

Appropriation:
State Building Construction Account—State $500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $500,000

NEW SECTION. **Sec. 1012.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Snohomish County Biodiesel (08-4-859)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for a grant for the Snohomish county biodiesel crusher project. This appropriation is subject to appropriate agreements to protect the public investment.

Appropriation:

Energy Freedom Account—State $500,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL $500,000

NEW SECTION. **Sec. 1013.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Quillayute Valley Wood-Fire Boiler (08-4-858)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for a grant for the Quillayute Valley wood-fire boiler demonstration project. This appropriation is subject to appropriate agreements to protect the public investment.

Appropriation:

Energy Freedom Account—State $1,000,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL $1,000,000

Sec. 1014. 2007 c 520 s 1042 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Development Fund (08-4-850)

The appropriation in this section is subject to the following conditions and limitations:

(1) The projects listed in this section must comply with RCW 43.63A.125(2)(c).

(2) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(3) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through

ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(4) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(5) Project funds are available on a reimbursement basis only and may not be advanced under any circumstances.

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The appropriation is provided solely for the following list of projects:

Project Name	Amount
CASA Latina	$1,000,000
Divine alternatives for dads services (DADS) center	$10,000
El Centro de la Raza center	$821,000
Hilltop renaissance community - Centro Latino	$1,950,000
Hilltop renaissance community - MLK development association preconstruction activities	$4,000,000
HomeSight center	$250,000
Ilwaco community building	$2,700,000
Japanese cultural center of Washington	$1,000,000
KCR Bremerton community services center	$900,000
KDNA community center (Granger community center)	$500,000
Korean women's association center	$1,500,000
North helpline lake city court	$350,000
Salishan housing community	$2,900,000
Sea Mar family housing community	$1,500,000
Spokane east central community center	$150,000
Spokane emmanuel center	$500,000
Spokane Northeast community center	$1,000,000
Wapato Filipino American center	$135,000
Total	$21,166,000

Appropriation:
State Building Construction Account—State $21,166,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $21,166,000

Sec. 1015. 2007 c 520 s 1045 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Washington State Horse Park (08-2-004)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section shall complete the state's capital obligation for the facility.

(2) Land provided for the state horse park by the county or city in which the park is located shall remain in the ownership of that county or city unless the county or city determines otherwise. The legislature encourages the county or city to provide a long-term lease of selected property to the Washington state horse park authority at a minimal charge.

Appropriation:
State Building Construction Account—State $3,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $3,500,000

NEW SECTION. **Sec. 1016.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Longview Regional Water Treatment Plant Dredging (08-1-001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the emergency dredging of the Cowlitz river to prevent sandbars from obstructing the intake facility necessary for the city of Longview to obtain water.

Appropriation:
State Building Construction Account—State $150,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $150,000

NEW SECTION. **Sec. 1017.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Quincy Water Treatment System Phase 1 (08-1-002)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely to increase the capacity of the water treatment facility in the city of Quincy.

Appropriation:
State Building Construction Account—State $4,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $4,500,000

NEW SECTION. **Sec. 1018.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Community Schools (08-4-856)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for the acquisition, rehabilitation, expansion, or improvement of surplus school buildings to be converted into community facilities for the delivery of nonresidential coordinated services for children and families.

(2) Eligible applicants include local governments, nonprofit organizations, nonprofit early learning providers, and tribal governments. Only the following surplus schools may be eligible for grant funding under this section: (a) Allen school; (b) Crown Hill school; (c) Fauntleroy school; (d) University Heights school; (e) Martin Luther King elementary school; and (f) Lincoln high school north wing.

(3) As part of the grant process, applicants must submit a comprehensive plan for the use of the surplus school that includes information on the following:

(a) A list of partner entities that will assist the lead eligible applicant to provide or coordinate services for children and families;

(b) A memorandum of understanding between the lead eligible applicant and each partner; and

(c) An examination of capital and operating funding sources that applicants intend to apply to the project and coordinated services at each school to be served, whether such funding is derived from grants under this section or from other federal, state, local, or private sources.

(4) Project applicants must demonstrate that the proposed project is ready to proceed, will make timely use of the funds, and requires state funding to accomplish a discrete, usable phase of the project that may include acquisition.

(5) If grant funds under this subsection are used for the acquisition of surplus school facilities, the sale proceeds must be used by the local school board disposing of such property for renovation, replacement, or new construction of school facilities in the district, but shall not be used as local match for projects receiving state school construction assistance grants.

(6) In contracts for grants authorized under this subsection, the department shall include provisions that require that capital improvements must be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities must be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

Appropriation:

State Building Construction Account—State $4,585,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL $4,585,000

*NEW SECTION. **Sec. 1019.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

2008 Local and Community Projects (08-4-861)

The appropriation in this section is subject to the following conditions and limitations:

(1) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only and may not be advanced under any circumstances.

(5) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(2)(c).

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The appropriation is provided solely for the following list of projects:

Project Name	**Amount**
180th/240th park development	$700,000
Armed forces and aerospace museum	$100,000
Brightwater environmental education center and energy test bed	$270,000
Bullerville utility district water system replacement	$350,000
Burley Mountain lodge	***$350,000***
Camano community health clinic	$500,000
Cispus environmental learning center	$150,000
Cliff Bailey center - north end roof	$302,000
Comfort house senior citizen center	$15,000
Culvert and road collapse on 17th street in Lynden	$500,000
Dayton historic depot	$75,000
Dialysis capacity and backup power	$450,000
Eatonville community pool access addition	$350,000

Edwall water system	$765,000
Examination room at children's justice center	$100,000
Federal Way performing arts preconstruction activities	$500,000
Garfield county agricultural history museum	$75,000
Greenacres neighborhood park development	$300,000
Handicap and public safety renovations	$115,000
Hazel Heights p-patch and community garden	$70,000
Historic train preservation	$50,000
Hope center	$135,000
Jim Kennett track renovation	$12,000
Kitsap mental health services residential facility	$1,000,000
Mason transit community center	$235,000
McCaw hall	$400,000
Mobile command center	$330,000
Mt. Rainier lahar warning system upgrade	$300,000
Mt. Spokane ski and snowboard parks preconstruction activities	$300,000
Naches depot and trail phase II	$375,000
New hope farms	$85,000
North East redevelopment area project preconstruction activities	$500,000
Petrovitsky park upgrade	$100,000
Public facility emergency readiness	$300,000
Puget Sound industrial excellence center	$1,000,000
Rainier Valley boys and girls club	$450,000
Redman slough channel restoration	$45,000
Relocation of Highline West Seattle mental health facility	$1,500,000
Road and culvert repair on Cedar Flats road	$500,000
Seahurst environmental center	$300,000
Share house expansion	$1,400,000
Skamania county fairgrounds emergency repairs	$100,000
Snohomish American legion ADA ramp	$50,000
Sunnyside school district	$150,000
Underwood water reservoir and water system improvements	$350,000
Union avenue redevelopment	$500,000
Vader public restrooms	$110,000
Vancouver river front redevelopment	$910,000
Wallingford boys and girls club	$100,000
West Richland diking district	$120,000
William Factory small business incubator	$250,000
Yakima Valley museum feasibility study - downtown arts center	$25,000
Youth housing and drop-in center	$300,000
YWCA Somerset village apartments and community center acquisition	$160,000
Total	$18,479,000

Appropriation:

State Building Construction Account—State $18,479,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $18,479,000

***Sec. 1019 was partially vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 1020.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Statewide Childcare Facilities Needs Assessment (08-4-857)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for the department, in consultation with the department of early learning, to provide an assessment of childcare capacity statewide for the following children: (a) Children served by programs under chapter 72.40 RCW; (b) sick children; (c) children whose care is subsidized by the department of social and health services; (d) children that participate in the early childhood education and assistance program; and (e) children that participate in the head start program.

(2) The department shall review current or potential funding sources for the acquisition, construction, renovation, or expansion of early learning and other childcare program facilities, and make recommendations to the legislature regarding the need to revise current state competitive childcare facility programs or develop new state programs.

(3)(a) The department shall convene a work group to consider and make recommendations regarding potential criteria for a competitive childcare facility program including, but not limited to the following: (i) Potential eligible applicants; (ii) the appropriateness of grants or loans for eligible applicants; (iii) the type of facilities that are eligible for grants or loans; (iv) objective selection criteria; (v) the need for technical assistance for applicants; and (vi) potential modifications, if any, to the school construction assistance program administered by the office of the superintendent of public instruction with regard to early learning and other childcare programs.

(b) The work group shall consist of stakeholders in the early learning and childcare communities and their recommendations must be delivered to the legislative fiscal committees by November 15, 2008.

Appropriation:
State Building Construction Account—State $42,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $42,000

NEW SECTION. **Sec. 1021.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Building Communities Fund Program (08-4-855)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the administrative costs associated with the implementation of chapter . . . (Second Substitute Senate Bill No. 6855 (funding for jobs, economic development, and local capital projects)), Laws of 2008. If the bill is not enacted by June 30, 2008, the appropriation in this section shall lapse. The department shall submit a list of qualified eligible projects to the governor and the legislature for the 2009-2011 biennium. The anticipated funding level for these projects is up to thirty-two million dollars.

Appropriation:
State Building Construction Account—State $250,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $250,000

NEW SECTION. **Sec. 1022.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT
Infrastructure Investment System (08-2-859)

The appropriation in this section is subject to the following conditions and limitations: The legislature intends to begin a process of reevaluating the policy goals and priorities for the allocation of infrastructure assistance program funds through the use of information that is available and reviewed each biennium by the infrastructure programs.

(1) The appropriation in this section is provided solely for the office of financial management, in cooperation with the department of community, trade, and economic development, the department of ecology, the department of health, the transportation improvement board, and the office of the state treasurer to develop an implementation plan. The implementation plan will also be developed in consultation with existing and potential state infrastructure program grant and loan recipients, other stakeholders, and the legislature. The implementation plan must identify options for the organization and coordination of appropriate state infrastructure assistance programs into an improved infrastructure investment system. The implementation plan must identify opportunities for the improved infrastructure investment system to achieve the following:

(a) Ease of access to program information and applications;

(b) Access to technical assistance;

(c) Coordination of program investment to ensure that all budget and tax support from all state sources is disclosed and considered as a total package of assistance. This includes the identification of taxes paid by taxing districts and regions and the benefits received from those same districts and regions;

(d) The promotion of strategic investments of state resources that are aligned with state policy goals, which includes laws, administrative rules, and program policies;

(e) The reduction of the cost of private market borrowing for jurisdictions with higher costs;

(f) The identification of additional revenue for local infrastructure; and

(g) Effective and efficient program administration.

(2) The development of an implementation plan must build upon prior studies and inventories of infrastructure programs and a further analysis of the major local infrastructure assistance programs. The implementation plan must be based on analysis, including the following:

(a) Identification of the benefits from state grants and interest rate subsidies to rate payers and local tax payers;

(b) A comparison of state policy goals, which are primary considerations in determining project funding decisions, with the actual funding decisions, the criteria used to rank proposals, and the performance measures used to monitor the success of the programs;

(c) The compilation of the total amount of assistance received by jurisdictions over the past five biennia;

(d) A comparison of the terms of a sample of low-interest loans provided to public infrastructure projects with the terms of private market borrowing that the jurisdictions would have been able to obtain. The sample of loans must include different types and sizes of projects and jurisdictions; and

(e) An identification of funds leveraged with state infrastructure resources.

(3) The legislature also intends to use information from the multiple infrastructure assistance programs to provide direction for future funding priorities. The legislature will base those priorities on information from infrastructure assistance programs, including the programs' recommendations for the following:

(a) Needed investment for the different types of infrastructure projects over the next six years;

(b) Funding allocation of the projected existing state infrastructure assistance resources to those types of projects;

(c) Reallocation of existing state resources for infrastructure projects; and

(d) New and existing local and state revenue sources to address unfunded local infrastructure needs. In estimating the needed investment for different types of infrastructure projects, infrastructure assistance programs may include in their recommendations new types of projects that are not authorized in statute.

(4) The implementation plan and analysis must be completed by December 1, 2008.

Appropriation:

Public Works Assistance Account—State $475,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL $475,000

Sec. 1023. 2007 c 520 s 1048 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Snohomish, Island, and Skagit County Regional Higher Education (08-2-001)

The appropriation in this section is subject to the following conditions and limitations:

(1) It is the intent of the legislature that the four-year institutions and the community and technical colleges work as cooperative partners to ensure the

successful and efficient operation of the state's system of higher education. In furtherance of the state's responsibility for the expansion of baccalaureate and graduate educational programs in the central Puget Sound area, the University of Washington shall govern and operate an additional branch campus to be located in the Snohomish/Island/Skagit county area. Top priorities for the campus include expansion of upper division capacity for transfer students and graduate students in high demand programs, with a particular focus on science, technology, and engineering. The campus may offer lower division courses linked to specific majors in fields not addressed at local community colleges. The campus may also directly admit freshmen and sophomores gradually and deliberately in accordance with a campus plan to be submitted to the higher education coordinating board. All student admissions will be carried out in accordance with coadmissions and proportionality agreements emphasizing access for transfer students codeveloped by the University of Washington and the state board for community and technical colleges.

(2) The office of financial management and the University of Washington are directed to assess options and make recommendations on the siting of the branch campus in the Snohomish/Island/Skagit county region and shall develop operational and management plans needed to establish the institution. The plans shall include but not be limited to a master business plan for design and implementation, and programs to be offered to address demographic pressures and workforce needs. Planning and analysis shall be done in coordination with the local community and existing higher education institutions. Site selection criteria shall include, but not be limited to: Meeting the objectives of the master business plan; meeting the unmet baccalaureate needs in the region, including high demand program needs; compliance with provisions of the state's growth management act; and accessibility from existing and planned transportation infrastructure.

(3) Five years from the time the first class of students enters the new institution, the higher education coordinating board will work with the new institution and a local advisory board to: (a) Review the extent to which the new institution is meeting the baccalaureate degree needs of the citizens and businesses of the region and state; (b) assess any additional steps needed to accomplish the goals set forth in subsection (1) of this section, and; (c) assess the relationship between the new institution and other higher education institutions in the region and the state.

(4) The state board for community and technical colleges and the University of Washington shall plan for transition of appropriate programs from the university center to upper division programs at the branch campus.

(5) The office of financial management and the University of Washington shall report to the governor and the appropriate committees of the senate and house of representatives by November 15, 2007, on campus siting recommendations and a preliminary design and implementation plan. ((~~The final design and implementation plan shall be delivered to the governor and the appropriate committees of the senate and house of representatives by June 1, 2008.~~))

(6) The office of financial management may contract with outside sources to carry out the provisions of this section.

Appropriation:
State Building Construction Account—State . . . . . ((~~$4,000,000~~))
$1,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$4,000,000~~))
$1,500,000

Sec. 1024. 2007 c 520 s 1050 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT
Oversight of State Facilities (08-2-855)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the office of financial management to strengthen its oversight role in state facility analysis and decision making as generally described in chapter 506, Laws of 2007.

Appropriation:
State Building Construction Account—State . . . . . ((~~$1,015,000~~))
$1,419,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$1,015,000~~))
$1,419,000

Sec. 1025. 2007 c 520 s 1049 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT
Higher Education Cost Escalation (08-2-854)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the office of financial management to assist public baccalaureate higher education institutions in managing unanticipated cost escalation for projects bid during the 2007-2009 biennium. Not more than $750,000 shall be made available to any single project and amounts used must be matched equally from other resources. The office of financial management shall manage the distribution of funds to ensure that the requesting institution has managed its project within the current appropriation through preparation of bid documents and that the scope of the project is no greater than originally specified in the design. Prior to approving use of a minor works appropriation as a match, and its transfer to the project with unanticipated cost escalation, the office of financial management shall require the institution to describe what it has done to identify and develop alternative resources for a match, and the specific minor works projects that would be deferred as a result of the transfer. The office of financial management shall report to the appropriate fiscal committees of the legislature on the use of these funds.

Appropriation:
State Building Construction Account—State . . . . . ((~~$3,237,000~~))
$1,500,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs). $0
TOTAL . . . . . .((~~$3,237,000~~))
$1,500,000

NEW SECTION. **Sec. 1026.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT
Higher Education Project Scoring and Financing Study (08-2-861)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the office of financial management to complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions, beginning in 2008, and a higher education financing study as generally described in chapter . . . (Engrossed Substitute House Bill No. 3329), Laws of 2008. If the bill is not enacted by June 30, 2008, the appropriation shall lapse.

Appropriation:
State Building Construction Account—State $300,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs). $0
TOTAL $300,000

Sec. 1027. 2007 c 520 s 1058 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION
Statewide Infrastructure: Preservation Minor Works (06-1-004)

Reappropriation:
State Vehicle Parking Account—State $31,000
State Building Construction Account—State. . . . . ((~~$246,000~~))
$146,000
Thurston County Capital Facilities Account—State. $1,824,000
Subtotal Reappropriation . . . . . ((~~$2,101,000~~))
$2,001,000

Prior Biennia (Expenditures). $918,000
Future Biennia (Projected Costs). $0
TOTAL . . . . . ((~~$3,019,000~~))
$2,919,000

***Sec. 1027 was vetoed. See message at end of chapter.**

Sec. 1028. 2007 c 520 s 1065 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION
Legislative Building Improvements (08-1-011)

((~~The appropriation in this section is subject to the following conditions and limitations: $25,000 of the capitol building construction account appropriation is provided solely to establish a legislative gift center created in chapter . . . (Second Substitute House Bill No. 1896), Laws of 2007. If the bill is not enacted by June 30, 2007, the appropriation shall lapse.~~))

Appropriation:
((~~Capitol Building Construction Account—State . . . . . $701,000~~))
Thurston County Capital Facilities Account—State $676,000
State Building Construction Account—State . . . . . ((~~$550,000~~))
$575,000
Subtotal Appropriation $1,251,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $2,836,000
TOTAL $4,087,000

Sec. 1029. 2007 c 520 s 1066 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION
Minor Works - Facility Preservation (08-1-015)

Appropriation:
Capitol Building Construction Account—State . . . . . ((~~$1,715,000~~))
$1,619,000
State Building Construction Account—State . . . . . ((~~$1,456,000~~))
$1,666,000
Thurston County Capital Facilities Account—State $3,634,000
General Administration Service Account—State $1,386,000
Subtotal Appropriation . . . . . ((~~$8,191,000~~))
$8,305,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$20,365,000~~))
$20,065,000
TOTAL . . . . . ((~~$28,556,000~~))
$28,370,000

***Sec. 1030.** 2007 c 520 s 1067 (uncodified) is amended to read as follows:*

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION
Minor Works - Infrastructure Preservation (08-1-004)

Appropriation:
Capitol Building Construction Account—State $600,000
State Vehicle Parking Account—State $22,000
State Building Construction Account—State . . . . . ((~~$3,000,000~~))
$2,796,000
Thurston County Capital Facilities Account—State $1,899,000
General Administration Service Account—State $200,000
Subtotal Appropriation . . . . . ((~~$5,721,000~~))
$5,517,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$7,006,000~~))
$6,006,000
TOTAL . . . . . ((~~$12,727,000~~))
$11,523,000

***Sec. 1030 was vetoed. See message at end of chapter.**

Sec. 1031. 2007 c 520 s 1073 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Oversight of State Facilities (08-2-853)

The appropriation in this section is subject to the following conditions and limitations: The appropriations ((~~is~~)) in this section ((~~is~~)) are provided solely for the department of general administration to assist the office of financial management with the development ((~~of six-year facility plans as generally described in chapter . . . (Substitute House Bill No. 2366), Laws of 2007~~)) and implementation of RCW 43.82.035 and 43.82.055.

Appropriation:

General Administration Services Account—State $345,000

State Building Construction Account—State $264,000

Subtotal Appropriation $609,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL . . . . . ((~~$345,000~~)) $609,000

***Sec. 1032. 2007 c 520 s 1068 (uncodified) is amended to read as follows:**

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Minor Works - Program (08-2-012)

Appropriation:

State Building Construction Account—State. . . . . ((~~$370,000~~)) $260,000

Prior Biennia (Expenditures). $0

Future Biennia (Projected Costs). $2,720,000

TOTAL . . . . . ((~~$3,090,000~~)) $2,980,000

***Sec. 1032 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 1033.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Infrastructure Relocation (08-2-028)

Appropriation:

State Building Construction Account—State $2,000,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL $2,000,000

NEW SECTION. **Sec. 1034.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Campus Monuments Repair and Restoration (09-1-003)

Appropriation:
State Building Construction Account—State $288,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $288,000

NEW SECTION. **Sec. 1035.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Thurston County—Capital Campus High Capacity Transportation Study (08-2-955)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for a contract with the Thurston county regional planning council for a study of transportation options for state employees in Thurston county and state capital campus visitors. The study must analyze trip patterns, alternative modes of transportation for employees, access for visitors, interagency travel, and commute trip reduction programs. The study must recommend options to improve multimodal transportation options available to those traveling to and from the capital and satellite campuses, including ways to improve the use, design, and access to new and existing transportation infrastructure such as parking lots, bicycle storage, park and rides, and transit stops.

Appropriation:
State Vehicle Parking Account—State $150,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $150,000

NEW SECTION. **Sec. 1036.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

Heritage Center/Executive Office Building: Design (08-2-858)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for design of the combined heritage center and executive office building project.

(2) The secretary of state and the department of general administration, in consultation with the office of the state treasurer, shall submit a financial plan for the combined project to the legislature by February 1, 2009. The financial plan must be approved by the director of the office of financial management and must include the following:

(a) An updated scope of work for the combined project;

(b) An updated projection of annual revenues and expenses for each portion of the combined facility authorized in section 6001 (9) and (10)(a) of this act that fully support the project scope;

(c) A contingency plan in the event that fees generated under RCW 43.07.128, 36.18.010, and 36.22.175 are insufficient to meet debt service

payments on the heritage center portion of the project in any given year over the life of the certificate of participation. Moneys derived from private fundraising activities shall not be considered as a revenue source for debt service payments in the contingency plan. The contingency plan must prioritize methods to be used to make up shortfalls in revenue including, but not limited to, transfers from the state general fund and other accounts, archive and corporate filing fee increases, agency operating budget reductions, and other methods;

(d) A risk management plan that identifies the process for decision making on project scope, schedule, and budget changes. The risk management plan also must describe the process for resolving disagreements between all parties; and

(e) An update on private fundraising activities.

(3) An executive steering committee shall be established for the project comprised of the secretary of state, the insurance commissioner, the director of the department of general administration, and the director of the office of financial management.

(4) The secretary of state and the department of general administration shall provide updates on the project to the office of financial management, including but not limited to information on project scope, schedule, and budget, on an interval to be determined by the office of financial management.

Appropriation:

Washington State Heritage Center Account—State. $6,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs). $0
TOTAL $6,000,000

***NEW SECTION.** Sec. 1037. A new section is added to 2007 c 520 (uncodified) to read as follows:*

FOR THE DEPARTMENT OF PERSONNEL

Thurston County Childcare Needs Assessment - Predesign (08-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the department of personnel and the department of general administration to develop a predesign to determine: (1) Childcare needs of Washington state employees in Thurston county; (2) existing licensed childcare capacity near the capitol campus, in Lacey and in Tumwater, located near state agency offices; (3) preferred and alternate locations based on that need and capacity, on or near the capitol campus, in Lacey and in Tumwater; (4) optimum size of childcare space; and (5) project costs for these locations. The departments shall submit the predesign by September 15, 2008, to the office of financial management and the appropriate legislative fiscal committees.

Appropriation:

Thurston County Capital Facilities Account—State. $150,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $0
TOTAL $150,000

***Sec. 1037 was vetoed. See message at end of chapter.**

Sec. 1038. 2007 c 520 s 1075 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF INFORMATION SERVICES

Wheeler Block Development—Department of Information Services, State Patrol, and General Office (08-2-950)

The appropriation in this section is subject to the following conditions and limitations: Planning funds are provided solely to lease/develop state office buildings and facilities for the department of information services on the "Wheeler block" of the east capitol campus. The office buildings shall be constructed and financed so that agencies' occupancy costs per gross square foot or per employee will not exceed 110 percent of comparable private market rental rates per gross square foot or per employee. The comparable general office space rate shall be calculated based on recent Thurston county leases of new space of at least 100,000 rentable square feet adjusted for known escalation clauses, expected inflation, and differences in the level of service provided by the comparable leases as determined by the department in consultation with the department of general administration. In addition to the department of information services, state agency tenants shall include the state patrol and general office facilities for small agencies and offices. The department shall design and operate the general office facilities for small agencies and offices as a demonstration of the efficiencies gained from the integration of office space and telecommunications and computer technology. The demonstration project shall provide office space, furniture, and telecommunications and computer technology as a single package. The facility shall be designed so that small agencies and offices can move in and out of the facility without the typical moving expenses that result from individual agency ownership of furniture and technology. The facility for small agencies and offices shall also provide for staffing and space efficiencies resulting from central reception, and support services and spaces. The department of general administration shall coordinate with state agency tenants of the existing general administration building that will not be relocated to the new facilities of the "Wheeler block" for occupancy of state-owned or existing leased facilities ((~~vacated by the state patrol or the department of information services~~)) within Thurston county prior to relocation to new or not currently state-owned or leased facilities. The department shall consider alternatives for backfilling vacated state patrol or department of information services leased facilities when possible.

Appropriation:
State Building Construction Account—State $2,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $2,000,000

Sec. 1039. 2007 c 520 s 1090 (uncodified) is amended to read as follows:

FOR THE STATUTE LAW COMMITTEE

Pritchard Building Rehabilitation (((~~08-2-017~~))) (08-2-850)

Appropriation:
State Building Construction Account—State . . . . . ((~~$1,100,000~~)) $800,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$1,100,000~~))
$800,000

NEW SECTION. **Sec. 1040.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE MILITARY DEPARTMENT
Flood Warning Systems (08-2-851)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the emergency management division in consultation with the department of ecology, the department of community, trade, and economic development, the Washington association of counties, the United States army corps of engineers, the national oceanic and atmospheric association, and the national weather service to develop the following:

(1) An inventory and description of flood warning systems currently in place in flood hazard areas of the state, including manual systems and electronic systems;

(2) A needs assessment indicating what specific areas of the state could be better served by flood warning systems based on flooding areas mapped under the federal emergency management act. The needs assessment must include recommendations regarding how to make timely notification of flood warnings and how to gather and share data about potential flood areas;

(3) An information bank of flood warning systems, with descriptions of available and emerging technologies, and estimates of the costs of purchasing, installing, and maintaining these systems;

(4) Sources of potential federal assistance for local flood warning systems; and

(5) Recommendations to assist local governments in the financing of capital costs of flood warning systems, including the potential to modify existing state programs.

The recommendations must be reported to the office of financial management and legislature by December 15, 2009.

Appropriation:
State Building Construction Account—State $250,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $250,000

PART 2
HUMAN SERVICES

NEW SECTION. **Sec. 2001.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION
Community and Technical College Mapping (08-2-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the Washington association of sheriffs and police chiefs to include facilities on community and technical college campuses in the statewide first responder building mapping information system.

Appropriation:
State Building Construction Account—State $1,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $746,000
TOTAL $1,746,000

Sec. 2002. 2007 c 520 s 2007 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Fircrest School - Health and Safety Improvements (06-1-852)

Reappropriation:
((~~Charitable, Educational, Penal, and Reformatory Institutions Account—State~~ . . . . . ~~$400,000~~))
State Building Construction Account—State $372,000

Prior Biennia (Expenditures) $350,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$750,000~~))
$722,000

Sec. 2003. 2007 c 520 s 2021 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Capital Project Management (08-1-110)

Appropriation:
Charitable, Educational, Penal, and Reformatory Institutions Account—State . . . . . ((~~$2,555,000~~))
$2,305,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $11,870,000
TOTAL . . . . . ((~~$14,425,000~~))
$14,175,000

Sec. 2004. 2007 c 520 s 2037 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Fircrest Campus Master Plan (08-2-850)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department shall resume and complete a master plan of the portion of the Fircrest campus that is not utilized by the Fircrest school or the department of health.

(2) In drafting the master plan, the department shall consult with the following:

(a) The city of Shoreline;

(b) The department of natural resources;

(c) The department of health regarding their master planning effort;

(d) Representatives of institutions of higher education with whom the department has a partnership; and

(e) Representatives of the Shoreline community and neighboring communities.

(3) The master plan must include a plan for the future of the property, including recommendations for alternative uses such as affordable housing and smart growth options. The hybrid option as described in the Fircrest excess property report dated January 14, 2008, must be used for the purposes of the master plan. The development of the master plan must not prohibit the potential future expansion of the public health laboratory by the department of health.

(4) The department must report to the appropriate committees of the legislature and the office of financial management by ((~~January 1, 2008~~)) December 1, 2010.

Appropriation:
State Building Construction Account—State . . . . . ((~~$175,000~~)) $445,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$175,000~~)) $445,000

Sec. 2005. 2007 c 520 s 2029 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center Medium Management Housing Addition (08-2-505)

The appropriation in this section is subject to the following conditions and limitations: Funding is for the evaluation of design alternatives to meet programmatic needs and to add residential space to existing facilities by remodeling existing residential space and converting existing program space to residential space for additional beds.

Appropriation:
State Building Construction Account—State . . . . . ((~~$1,000,000~~)) $1,275,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$1,000,000~~)) $1,275,000

Sec. 2006. 2007 c 520 s 2032 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital Laundry Upgrades (08-1-325)

Appropriation:
State Building Construction Account—State . . . . . ((~~$885,000~~)) $2,858,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$885,000~~))
$2,858,000

Sec. 2007. 2007 c 520 s 2042 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH
Public Health Laboratory Addition (08-2-003)

Appropriation:
State Building Construction Account—State . . . . . ((~~$1,184,000~~))
$2,012,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$8,984,000~~))
$8,156,000
TOTAL $10,168,000

Sec. 2008. 2007 c 520 s 2045 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH
Drinking Water Assistance Program (06-4-001)

Reappropriation:
Drinking Water Assistance Account—Federal $18,588,000
Appropriation:
Drinking Water Assistance Account—Federal . . . . . ((~~$54,300,000~~))
$66,474,000

Prior Biennia (Expenditures) $7,086,000
Future Biennia (Projected Costs) $99,360,000
TOTAL . . . . . ((~~$179,334,000~~))
$191,508,000

NEW SECTION. **Sec. 2009.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF HEALTH
Review of Drinking Water Systems (08-2-850)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for the department of health to conduct a statewide review of small public drinking water systems that have or may in the future require significant state resources to resolve urgent threats to public health and safety. A small water system is less than one thousand connections (a group A or group B water system). The department shall evaluate case studies, the two regulatory frameworks in place for small systems, and provide a report to the appropriate legislative committees and the office of financial management with recommendations on early interventions or changes to the regulatory structure that could prevent such problems in the future.

(2) The department shall identify the communities that would benefit from consolidation, regionalization, or other measures that will lead to improved

small system regulatory compliance, long-term public health protection, and sustained economic vitality in communities served by small systems. The department shall submit a progress report to the fiscal committees of the legislature and the office of financial management by December 1, 2008, and a final report by June 30, 2009.

Appropriation:
State Building Construction Account—State $100,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $100,000

NEW SECTION. **Sec. 2010.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS
Walla Walla Nursing Facility (08-2-008)

Appropriation:
State Building Construction Account—State $125,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $13,850,000
TOTAL $13,975,000

Sec. 2011. 2007 c 520 s 2061 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS
Monroe Corrections Complex: Improve C and D Units Security Features (06-1-046)

Reappropriation:
State Building Construction Account—State . . . . . ((~~$280,000~~)) $308,000

Prior Biennia (Expenditures) $2,618,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$2,898,000~~)) $2,926,000

NEW SECTION. **Sec. 2012.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS
Monroe Corrections Center: 100-Bed Management and Segregation Unit (00-2-008)

Reappropriation:
State Building Construction Account—State $995,000

Prior Biennia (Expenditures) $38,443,000
Future Biennia (Projected Costs) $0
TOTAL $39,438,000

NEW SECTION. **Sec. 2013.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Convert BAR Units from Medium to Close Custody (04-2-004)

Reappropriation:
State Building Construction Account—State $110,000

Prior Biennia (Expenditures) $17,699,000
Future Biennia (Projected Costs) $0
TOTAL $17,809,000

Sec. 2014. 2007 c 520 s 2054 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Coyote Ridge Corrections Center: Design and Construct Medium Security Facility (98-2-011)

Reappropriation:
State Building Construction Account—State $155,459,000

Appropriation:
State Building Construction Account—State . . . . . ((~~$13,700,000~~))
$1,280,000

Prior Biennia (Expenditures) $75,449,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$244,608,000~~))
$232,188,000

Sec. 2015. 2007 c 520 s 2056 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: North Close Security Compound (04-2-005)

Reappropriation:
State Building Construction Account—State $10,482,000

Appropriation:
State Building Construction Account—State $13,007,000
Charitable, Educational, Penal, and Reformatory Institutions Account—State $763,000
Subtotal Appropriation $13,770,000

Prior Biennia (Expenditures) $130,276,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$140,758,000~~))
$154,528,000

Sec. 2016. 2007 c 520 s 2058 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Clallam Bay Corrections Center: Replace Support Building Roof (06-1-044)

Reappropriation:
State Building Construction Account—State . . . . . ((~~$3,930,000~~))
$3,580,000

Prior Biennia (Expenditures) $822,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$4,752,000~~))
$4,402,000

Sec. 2017. 2007 c 520 s 2075 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Replace Correctional Industry Roof (06-1-023)

Reappropriation:
Charitable, Educational, Penal, and Reformatory Institutions Account—State . . . . . ((~~$1,619,000~~))
$856,000
State Building Construction Account—State . . . . . ((~~$1,338,000~~))
$1,101,000
Subtotal Reappropriation . . . . . ((~~$2,957,000~~))
$1,957,000

Prior Biennia (Expenditures) $494,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$3,451,000~~))
$2,451,000

PART 3
NATURAL RESOURCES

Sec. 3001. 2007 c 520 s 3001 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Water Supply Facilities (74-2-006)

The reappropriation in this section is subject to the following conditions and limitations: $300,000 of funds redirected from completed or cancelled projects is provided solely for capital expenses associated with a groundwater study of the upper Kittitas.

Reappropriation:
State and Local Improvements Revolving Account (Water Supply Facilities)—State $2,756,000

Prior Biennia (Expenditures) $13,543,000
Future Biennia (Projected Costs) $0
TOTAL $16,299,000

Sec. 3002. 2007 c 520 s 3019 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

State Drought Preparedness (05-4-009)

Reappropriation:
State Drought Preparedness—State . . . . . ((~~$1,464,000~~))
$1,287,000

Prior Biennia (Expenditures) $5,865,000

Future Biennia (Projected Costs). $0
TOTAL . . . . . ((~~$7,329,000~~))
$7,152,000

Sec. 3003. 2007 c 520 s 3036 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Centennial Clean Water Program (08-4-010)

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

(1) Up to $10,000,000 of the state building construction account—state appropriation is for the extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.

(2) $5,000,000 of the state building construction account—state appropriation is provided solely for water quality grants for hardship communities with a population of less than 5,000. The department shall give priority consideration to: (a) Communities subject to a regulatory order from the department of ecology for noncompliance with water quality rules; (b) projects for which design work has been completed; and (c) projects with a local match from reasonable water quality rates and charges.

(3) $2,000,000 of the state building construction account—state appropriation is provided solely for the Adams and Lincoln counties ground water mapping project. The project shall submit a report to the appropriate committees of the legislature describing the dynamic relationship between groundwater and surface water in the region. The report shall be submitted by January 1, 2009.

(4) $2,100,000 of the state toxics control account appropriation is provided solely for wastewater and clean water improvement projects at Illahee state park, Fort Flagler state park, and Larrabee state park.

(5)(a) $4,400,000 of the state building construction account—state appropriation is provided solely for the Tenino waste water treatment facility and collection system to replace the city of Tenino's septic systems.

(b) ((~~$18,505,000~~)) $22,113,000 of the state building construction account—state appropriation is provided solely for the following projects:

Project	Amount
City of Carnation waste water treatment system	$3,000,000
Mansfield waste water treatment upgrade	$960,000
Rock Island waste water treatment system	$870,000
Enumclaw waste water treatment system	$750,000
Snohomish waste water treatment system	((~~$4,925,000~~)) $5,425,000
Freeland sewer district	$1,000,000
Clark county regional sewer cooperative	$4,000,000
Town of Warden waste water	$3,000,000
Gig Harbor waste water system improvements	$1,000,000
Ritzville waste water treatment system	$1,608,000
Sultan waste water system improvements	$500,000

(((~~(b)~~))) (c) The appropriation for entities that are listed in (((~~(a)~~))) (b) of this subsection shall not affect the entities' eligibility for centennial fund hardship

assistance and shall be excluded from any financial hardship calculation that would have the effect of reducing other moneys for which the entity is currently contracted and eligible under WAC 173-95A-030(8), as it existed on the effective date of this section.

(((~~(c)~~))) (d) The appropriation to the city of Carnation is for payment to King county for the county connection charge and other eligible costs.

Appropriation:
State Building Construction Account—State . . . . . ((~~$49,225,000~~)) $42,629,000
Water Quality Capital Account—State . . . . . ((~~$7,550,000~~)) $5,417,000
State Toxics Control Account—State . . . . . ((~~$2,100,000~~)) $18,837,000
Subtotal Appropriation . . . . . ((~~$58,875,000~~)) $66,883,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $178,400,000
TOTAL . . . . . ((~~$237,275,000~~)) $245,283,000

NEW SECTION. **Sec. 3004.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Wastewater Regionalization (08-2-851)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the department to conduct a review of statewide community wastewater infrastructure needs and identify communities that would benefit from regional wastewater infrastructure and identify any barriers to regionalization these communities may face. The department must submit an interim report to the appropriate legislative committees and the office of financial management by November 30, 2008, with a final report due by June 30, 2009.

Appropriation:
State Building Construction Account—State $100,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $100,000

NEW SECTION. **Sec. 3005.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Wastewater Systems Case Studies (08-2-852)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the department and department of community, trade, and economic development to develop a set of case studies of wastewater systems, based on the small

communities initiative's action list, that require significant state financial and technical resources to resolve urgent threats to public health, safety, and environmental quality. The department shall provide recommendations for early interventions to prevent similar problems with small communities in the future. The recommendations must be provided to the appropriate legislative committees and the office of financial management by November 30, 2008.

Appropriation:
State Building Construction Account—State $75,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $75,000

Sec. 3006. 2007 c 520 s 3037 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Cleanup Toxic Sites in Puget Sound (08-4-005)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for the clean up of contaminated sites that lie adjacent to and are within one-half mile of Puget Sound. Clean ups shall include orphan and abandoned sites that pose a threat to Puget Sound with the highest priority sites being cleaned up first. The department shall provide the Puget Sound partnership, as created by chapter 341, Laws of 2007, the opportunity to review and provide comment on proposed projects and activities recommended for funding. This review shall be consistent with the funding schedule for the program.

Appropriation:
State Toxics Control Account—State . . . . . ((~~$4,000,000~~)) $6,767,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $18,820,000
TOTAL . . . . . ((~~$22,820,000~~)) $25,587,000

Sec. 3007. 2007 c 520 s 3045 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Reduce Health Risks from Toxic Diesel Pollution (08-4-024)

The appropriation in this section is subject to the following conditions and limitations:

(1) ((~~$4,840,000~~)) $5,380,000 of the appropriation is provided solely for clean diesel school bus ((~~diesel retrofits~~)) projects for local school districts, which the department may use for the purposes of RCW 28A.160.205.

(2) ((~~$2,330,000~~)) $4,830,000 of the appropriation is provided solely for ((~~emission reduction projects for local governments to retrofit public sector diesel engines to allow public sector fleets to reduce their emissions~~)) clean diesel projects, other than for school buses, as described in RCW 70.94.017(2)(a) and may be distributed through grants to air pollution control authorities.

Appropriation:
Local Toxics Control Account—State . . . . . ((~~$7,170,000~~))
$10,210,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$7,170,000~~))
$10,210,000

Sec. 3008. 2007 c 520 s 3046 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Remedial Action Grants (08-4-008)

Appropriation:
Local Toxics Control Account—State . . . . . ((~~$84,475,000~~))
$92,875,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $180,000,000
TOTAL . . . . . ((~~$264,475,000~~))
$272,875,000

Sec. 3009. 2007 c 520 s 3048 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Safe Soils Remediation Grants (08-4-009)

Appropriation:
State Toxics Control Account—State . . . . . ((~~$2,000,000~~))
$4,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $4,000,000
TOTAL . . . . . ((~~$6,000,000~~))
$8,500,000

Sec. 3010. 2007 c 520 s 3050 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Skykomish Cleanup (08-4-020)

The appropriation in this section is subject to the following conditions and limitations: $3,000,000 of the cleanup settlement account appropriation is provided solely for implementation of chapter . . . . (Senate Bill No. 6722 (cleanup settlement account)), Laws of 2008. If the bill is not enacted by June 30, 2008, the amount provided in this section shall lapse.

Appropriation:
State Toxics Control Account—State $7,000,000
Clean Up Settlement Account—State $3,000,000
Subtotal Appropriation $10,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . ((~~$0~~))
$2,050,000

TOTAL . . . . . ((~~$7,000,000~~))
$12,050,000

NEW SECTION. **Sec. 3011.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Mason County Consortium (08-4-851)

Appropriation:
State Toxics Control Account—State $500,000
Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $500,000

NEW SECTION. **Sec. 3012.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Flood Protection Study (08-2-855)

The appropriation in this section is subject to the following conditions and limitations:

The legislature finds that levees across the state provide protection to hundreds of communities from flooding. Many of these levee systems are old, built with substandard materials, and were not designed to provide the level of protection that the communities behind them need. Recent decertification of levees in King and Pierce counties by the United States army corps of engineers indicates a growing problem with levee maintenance. As more levees are decertified, land behind those levees is considered to be located in the regulated floodplain. Because of this, many homeowners and businesses must obtain flood insurance, and new construction projects must meet strict new building codes.

Therefore, the appropriation in this section is provided solely for the department to conduct a study to determine the number of decertified levees in the state and to identify strategies for recertifying the levees so that they provide optimum protection for the communities protected by the levees. The department must prioritize areas to include in the study based on population and the economic impact of potential flood damage.

The study shall include the following components:

(1) A working group of levee managers to advise and inform the study;

(2) A technical review of the structural integrity of levee systems;

(3) An inventory, map, and rate the effectiveness of existing levee systems; and

(4) The development of strategies and actions needed to improve the existing levee system and to ensure certification by the United States army corps of engineers for one-hundred year flood protection.

The study must be completed and a report provided to the appropriate legislative committees by July 1, 2009.

Appropriation:
State Building Construction Account—State $280,000
Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0
TOTAL $280,000

Sec. 3013. 2007 c 520 s 3049 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Reduce Public Health Risks from Wood Stove Pollution (08-4-019)

Appropriation:
Wood Stove Education Account—State $500,000
Local Toxics Control Account—State $1,500,000
Subtotal Appropriation $2,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) . . . . . (($2,000,000)) $0
TOTAL . . . . . (($2,500,000)) $2,000,000

NEW SECTION. **Sec. 3014.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ECOLOGY
Breazeale Interpretive Center (08-2-856)

Appropriation:
General Fund—Federal $495,000
Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $495,000

Sec. 3015. 2007 c 520 s 3060 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Facility Preservation - Facilities (06-1-004)

Reappropriation:
State Building Construction Account—State . . . . . (($6,000,000)) $4,700,000

Prior Biennia (Expenditures) $4,419,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . (($10,419,000)) $9,119,000

Sec. 3016. 2007 c 520 s 3072 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Puget Sound Wastewater (06-1-851)

Reappropriation:
State Building Construction Account—State . . . . . (($6,100,000)) $5,814,000

Prior Biennia (Expenditures) $1,095,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . (($7,195,000)) $6,909,000

NEW SECTION. **Sec. 3017.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Saint Edward State Park Seminary Building: Preservation (08-1-010)

The appropriation in this section is subject to the following conditions and limitations: Design and construction to stop ground water intrusion, above-ground water intrusion, and internal leakage from the rain leader system.

Appropriation:
State Building Construction Account—State $2,310,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $12,200,000
TOTAL $14,510,000

Sec. 3018. 2007 c 520 s 3087 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Minor Works - Facility Preservation (08-1-001)

Appropriation:
State Building Construction Account—State . . . . . ((~~$9,000,000~~)) $8,800,000
State Toxics Control Account—State $200,000
Subtotal Appropriation $9,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $40,000,000
TOTAL $49,000,000

Sec. 3019. 2007 c 520 s 3084 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Historic Preservation (08-1-002)

((~~The appropriation in this section is subject to the following conditions and limitations:~~

~~(1) $500,000 of the appropriation is provided solely for the design, permits, and drawings for the seminary building at St. Edward State Park.~~

~~(2) $500,000 of the appropriation is provided solely for improvements to prevent further degradation of the seminary building.~~))

Appropriation:
State Building Construction Account—State . . . . . ((~~$7,101,000~~)) $6,191,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $14,500,000
TOTAL . . . . . ((~~$21,601,000~~)) $20,691,000

Sec. 3020. 2007 c 520 s 3092 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Trail Development (08-1-008)

The appropriation in this section is subject to the following conditions and limitations:

(1) $500,000 of the appropriation is provided solely to construct the ecological trail from Baker Bay to the Pacific ocean at Cape Disappointment state park, as identified in the commission's master capital plan.

(2) $350,000 of the appropriation is provided solely for upgrades to the Squak mountain trail.

(3) The commission shall permit the city of North Bend to install a water line under part of the John Wayne trail. The city shall pay for all project costs and the cost of restoring the trail to the original or improved condition but shall not be charged a fee for the easement.

Appropriation:
State Building Construction Account—State $4,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $4,000,000

Sec. 3021. 2007 c 520 s 3095 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Lake Sammamish Major Park Upgrade (08-1-014)

Appropriation:
State Building Construction Account—State . . . . . ((~~$1,033,000~~)) $1,183,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$1,033,000~~)) $1,183,000

NEW SECTION. **Sec. 3022.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Ocean City Comfort Station—Fire Damage Repair (08-1-043)

Appropriation:
State Building Construction Account—State $181,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $181,000

NEW SECTION. **Sec. 3023.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Fort Flagler: Parkwide Sewage Treatment System (08-1-044)

Appropriation:
State Building Construction Account—State $2,773,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0

TOTAL $2,773,000

NEW SECTION. **Sec. 3024.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Bigelow House (08-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for capital improvements to the Bigelow house. The commission shall accept the donation of the Bigelow house museum, the grounds, and the contents of the Bigelow house museum from the Bigelow house preservation association if the Bigelow house preservation association agrees to continue to provide staff and programming for the museum.

Appropriation:
State Building Construction Account—State $100,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $100,000

NEW SECTION. **Sec. 3025.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION
Ike Kinswa State Park Improvement (08-2-950)

Appropriation:
Parks Renewal and Stewardship Account—Private/Local $500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $500,000

Sec. 3026. 2007 c 520 s 3102 (uncodified) is amended to read as follows:

FOR THE ((~~INTERAGENCY COMMITTEE FOR OUTDOOR~~)) RECREATION AND CONSERVATION FUNDING BOARD
Salmon Recovery Funding Board Programs (00-2-001)

Reappropriation:
General Fund—Federal $166,000
Salmon Recovery Account—State . . . . . ((~~$1,175,000~~)) $575,000
Subtotal Reappropriation . . . . . ((~~$1,341,000~~)) $741,000

Prior Biennia (Expenditures) $100,284,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$101,625,000~~)) $101,025,000

Sec. 3027. 2007 c 520 s 3134 (uncodified) is amended to read as follows:

FOR THE ((~~INTERAGENCY COMMITTEE FOR OUTDOOR~~)) RECREATION AND CONSERVATION FUNDING BOARD

Youth Athletic Fields (06-2-952)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for competitive grants for acquisition, development, and renovation of youth athletic fields. The committee shall follow the applicable rules of the youth athletic facilities program, except that grants for maintenance are not eligible and the amount of a grant need not be in proportion to the population of the city or county where the community outdoor athletic facility is located, and if there are not enough project applications submitted in a category within the account to meet the requirement of equal distribution of funds to each category, the recreation and conservation funding board may distribute any remaining funds to other categories within the account.

Reappropriation:
State Building Construction Account—State $2,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $2,500,000

***Sec. 3028.** 2007 c 520 s 3146 (uncodified) is amended to read as follows:

FOR THE ((~~INTERAGENCY COMMITTEE FOR OUTDOOR~~)) RECREATION AND CONSERVATION FUNDING BOARD

Washington Wildlife Recreation Grants (08-4-011)

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

(1) The appropriations are provided solely for the approved list of projects in LEAP capital document No. 2007-3 as developed on March 17, 2007, and LEAP capital document No. 2008-1 as developed on February 13, 2008.

(2) If additional funds are available after funding the farmlands preservation account projects approved in subsection (1) of this section, the committee may:

(a) Provide one-time grants of up to $25,000 each to counties requesting assistance in developing farmlands preservation strategies for the purpose of seeking grants from the farmlands preservation account in future grant cycles.

(b) Conduct a second grant cycle in the 2007-2009 biennium for farmlands preservation projects. A ranked list of farmlands preservation projects may be submitted to the governor by November 1, 2007, for approval in the 2008 supplemental capital budget. The governor may remove projects from the list recommended by the committee and shall submit this amended list in the supplemental capital budget request to the legislature.

(3) Funds appropriated for distribution according to the provisions of RCW 79A.15.040(1)(c) shall be allocated forty percent to local government projects and sixty percent to state agency projects. If the cumulative total of local government projects is less than forty percent of the total distribution to this category, the difference may be allocated to state agency projects.

(4) $627,299 of the appropriation from the riparian protection account is provided solely for the Chehalis river surge plain natural area preserve. This amount shall not be expended for the project until the department of natural resources has completed a management plan for the preserve that maintains

recreational access and that management plan is presented to the house of representatives capital budget and senate ways and means committees.

(5) The recreation and conservation funding board shall research hazards to the public from personal high speed watercraft, also known as jet skis, and shall report to the fiscal committees of the legislature by January 1, 2009, with recommendations for increasing public enjoyment and safety when commingling personal high speed watercraft and other forms of motorized and nonmotorized water recreation.

Appropriation:

Outdoor Recreation Account—State	$36,000,000
Farmlands Preservation Account—State	$9,000,000
Riparian Protection Account—State	$19,000,000
Habitat Conservation Account—State	$36,000,000
Subtotal Appropriation	$100,000,000
Prior Biennia (Expenditures)	$0
Future Biennia (Projected Costs)	$280,000,000
TOTAL	$380,000,000

***Sec. 3028 was partially vetoed. See message at end of chapter.**

Sec. 3029. 2007 c 520 s 3144 (uncodified) is amended to read as follows:

FOR THE ((~~INTERAGENCY COMMITTEE FOR OUTDOOR~~)) RECREATION AND CONSERVATION FUNDING BOARD

Nonhighway Off-Road Vehicle Activities (08-4-008)

The appropriation in this section is subject to the following conditions and limitations: $450,000 of the appropriation is provided solely for grants to local law enforcement and noise enforcement agencies for the enforcement of existing state noise laws and regulations. Grants may be used to acquire noise monitoring equipment and to compensate law enforcement agencies for staff overtime and administrative expenses. Funds for noise enforcement grants shall come from amounts allocated for the purposes specified in RCW 46.09.170(2)(d).

Appropriation:

Nonhighway Off-Road Vehicle Activities Program Account—State	$9,036,000
Prior Biennia (Expenditures)	$0
Future Biennia (Projected Costs)	$42,945,000
TOTAL	$51,981,000

NEW SECTION. **Sec. 3030.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE STATE CONSERVATION COMMISSION

Flood Assistance for Farm Communities (08-4-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to restore agricultural infrastructure and equipment necessary to repair, replace, or maintain infrastructure that provides public health and safety, water quality, and fish and

wildlife habitat protection, including debris removal, fencing, replacing manure lagoons, and properly functioning equipment and facilities.

Appropriation:
State Building Construction Account—State $1,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,500,000

Sec. 3031. 2007 c 520 s 3155 (uncodified) is amended to read as follows:

FOR THE STATE CONSERVATION COMMISSION
Practice Incentive Payment Loan Program (08-4-004)

Appropriation:
Conservation Assistance Revolving Account—State . . . . . ((~~$1,000,000~~))
$500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $3,000,000
TOTAL . . . . . ((~~$4,000,000~~))
$3,500,000

NEW SECTION. **Sec. 3032.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE STATE CONSERVATION COMMISSION
Livestock Nutrient Program (08-4-001)

Appropriation:
Water Quality Capital Account—State $4,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $4,000,000

Sec. 3033. 2007 c 520 s 3161 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE
Fish and Wildlife Population and Habitat Protection (06-1-003)
The appropriations in this section are subject to the following conditions and limitations: The state building construction account appropriation is provided solely for increasing the allocation for the bank stabilization and fish habitat project on the east fork of the Lewis river.

Reappropriation:
Wildlife Account—State . . . . . ((~~$288,750~~))
$289,000

Appropriation:
State Building Construction Account—State $375,000
Prior Biennia (Expenditures) . . . . . ((~~$311,250~~))
$311,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$600,000~~))
$975,000

Sec. 3034. 2007 c 520 s 3175 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Puget Sound Initiative - Nearshore Salmon Restoration (06-2-001)

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

(1) The appropriations in this section are provided solely for efforts to restore nearshore habitat and estuaries in Puget Sound. The department shall focus on restoring natural nearshore processes, including protection and restoration of beach sediments and removal of existing bulkheads.

(2) The department shall provide the Puget Sound partnership, as created by chapter 341, Laws of 2007 the opportunity to review and provide comment on proposed projects and activities recommended for funding. This review shall be consistent with the funding schedule for the program.

(3) Funded projects require a nonstate match or in-kind contributions. The department shall seek to maximize the amount of nonstate match from local, state, tribal, and federal partners. Individual projects require a minimum 33 percent cash or in-kind match.

(4) Eligible projects must be within Puget Sound and identified by a salmon recovery lead entity or marine resource committee and identified in a current salmon recovery, watershed, or nearshore habitat restoration and protection plan.

(5) Project evaluation criteria shall be developed by the Puget Sound nearshore steering committee. The criteria shall be consistent with the technical guidance developed by the Puget Sound nearshore science team and shall be coordinated with the salmon recovery funding board to ensure that project funding and matching requirements are maximized to the greatest extent possible.

(6) The department shall not utilize any amount of this appropriation to support administration or overhead. Funding to support the administration of the funds and the implementation of selected projects shall be obtained from the department's operating budget.

(7) In recognition of the urgent need to complete the Puget Sound nearshore ecosystem restoration project general investigation, up to $723,000 of this appropriation may be used to match federal funds implementing the cost-share agreement between the department and the United States army corps of engineers.

(8) ((~~$3,746,875~~)) $2,698,735 of the appropriation is provided solely for the following projects:

Project	Amount
Carpenter creek estuary phase 1 (South Kingston road)	$637,000
Duwamish Garden estuary restoration	((~~$1,400,000~~)) $300,000
Seahurst Park bulkhead phase II	$1,100,000
Lower Dosewallips floodplain	$609,875
Titlow Beach pocket estuary restoration	$51,860

Reappropriation:

State Building Construction Account—State $2,300,000

Appropriation:
State Building Construction Account—State $12,000,000
General Fund—Federal $1,000,000
Subtotal Appropriation $13,000,000

Prior Biennia (Expenditures) $200,000
Future Biennia (Projected Costs) $28,000,000
TOTAL $43,500,000

Sec. 3035. 2007 c 520 s 3179 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE
Statewide Fencing Renovation and Replacement (08-1-009)

The appropriation is this section is subject to the following conditions and limitations: ((~~$1,000,000 of the appropriation is provided solely for the replacement of elk fencing lost in the 2005 school fire in the Wooten wildlife area.~~))

(1) Up to $2,000,000 of the appropriation from the wildlife account that is compensation from the settlement received by the state for damages to the Wooten wildlife area caused by the school fire is for the replacement of elk fencing in the Wooten wildlife area. The department shall contract with another state agency to construct the fence.

(2) $331,000 of the appropriation is provided solely for the replacement of a barbed wire fence that was destroyed in the Rockpile creek fire of July 2007.

Appropriation:
State Building Construction Account—State . . . . . ((~~$2,100,000~~)) $1,431,000
Wildlife Account—Private/Local $2,000,000
Subtotal Appropriation $3,431,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$2,100,000~~)) $3,431,000

Sec. 3036. 2007 c 520 s 3187 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE
Combined State Agency Aviation Facility (08-1-950)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for predesign and design of a single, consolidated aviation facility, including consolidated operations, at the Olympia airport to house the fixed wing operations of the Washington state patrol, the department of natural resources, and the department of fish and wildlife, and the rotary operations of the department of natural resources. The office of financial management shall not allot design funds until the predesign has undergone a budget evaluation study team review, and the results of the budget evaluation study team review have been provided to the legislative fiscal committees and submitted to the office of financial management for review and approval.

Appropriation:

State Building Construction Account—State . . . . . ((~~$11,000~~)) $101,000
Wildlife Account—State $12,000
Subtotal Appropriation . . . . . ((~~$23,000~~)) $113,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $1,608,000
TOTAL . . . . . ((~~$1,631,000~~)) $1,721,000

NEW SECTION. **Sec. 3037.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE
Okanogan-Similkameen Land Acquisition (08-2-023)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for the acquisition of agricultural easements or land as specified for the following properties:
(1) South end Palmer lake: Agricultural easement;
(2) Highway 97 near Riverside: Land acquisition;
(3) McLaughlin Canyon: Agricultural easement;
(4) Similkameen and Sinlahekin river intersect: Agricultural easement; and
(5) Buzzard lake: Land acquisition.

Appropriation:
State Building Construction Account—State $3,000,000
Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $3,000,000

NEW SECTION. **Sec. 3038.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE
Ebey Island Property (08-2-852)

The appropriation in this section is subject to the following conditions and limitations: Up to $3,300,000 of the appropriation in this section is for the acquisition of the Ebey island property from the YMCA of Snohomish county. The office of financial management shall not allot funds to the department until the appraisal is complete and shall not allot more than the amount of the appraisal. The department shall assess the cost of: (1) Extending the YMCA segment of the Ebey island road one-quarter of a mile; and (2) constructing a parking lot at the end of the road.

Appropriation:
State Building Construction Account—State $2,300,000
General Fund—Federal $1,000,000
Subtotal Appropriation $3,300,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0

TOTAL $3,300,000

NEW SECTION. **Sec. 3039.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE
Stemilt Basin Acquisition (08-2-029)

Appropriation:
State Building Construction Account—State $200,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $200,000

Sec. 3040. 2007 c 520 s 3198 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES
Recreation Capital Renovations (08-2-006)

The appropriation in this section is subject to the following conditions and limitations: $200,000 of the appropriation is provided solely for trail system signage. The department shall not plan for or construct new or expanded facilities or trails for off-road vehicles for recreation on state lands until after June 30, 2009, unless the project is already funded, has been considered as part of a landscape-level plan for recreation that has completed state environmental policy act (SEPA) review, which included public participation, and is the best alternative to protect environmental or trust resources and public safety from immediate risk.

Appropriation:
State Building Construction Account—State. $1,065,000

Prior Biennia (Expenditures). $0
Future Biennia (Projected Costs). $15,278,000
TOTAL $16,343,000

***Sec. 3040 was vetoed. See message at end of chapter.**

Sec. 3041. 2007 c 520 s 3211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES
Combined State Agency Aviation Facility (08-1-952)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for predesign and design of a single, consolidated aviation facility, including consolidated operations, at the Olympia airport to house the fixed wing operations of the Washington state patrol, the department of natural resources, and the department of fish and wildlife, and the rotary operations of the department of natural resources. The office of financial management shall not allot design funds until the predesign has undergone a budget evaluation study team review, and the results of the budget evaluation study team review have been provided to the legislative fiscal committees and submitted to the office of financial management for review and approval.

Appropriation:

Forest Development Account—State $15,000
Resource Management Cost Account—State $16,000
State Building Construction Account—State . . . . . ((~~$23,000~~))
$555,000
Subtotal Appropriation . . . . . ((~~$54,000~~))
$586,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $3,783,000
TOTAL . . . . . ((~~$3,837,000~~))
$4,369,000

Sec. 3042. 2007 c 520 s 3204 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES
Trust Land Transfer (08-2-005)

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

(1) The total appropriation is provided to the department solely to transfer from trust status, or enter into fifty year leases for, certain trust lands of statewide significance deemed appropriate for state park, fish and wildlife habitat, natural area preserve, natural resources conservation area, open space, housing and essential government services, or recreation purposes. The approved list of projects is identified in the LEAP capital document 2007-5, developed ((~~March 20~~)) April 19, 2007.

(((~~(3)~~))) (2) Property subject to lease agreements under this section shall be appraised at fair market value. Lease terms shall be fifty years with options to renew for an additional fifty years. Lease payments shall be lump sum payments for the entire term of the lease at the beginning of the lease. The department shall calculate such lump sum payments using professional appraisal standards. These lease payments may not exceed the fee simple purchase price based on current fair market value and shall be deposited by the department to the common school construction account in the same manner as lease revenues from other common school trust lands. No deduction shall be made for the resource management cost account under RCW 79.64.040.

(((~~(4)~~))) (3) All reasonable costs incurred by the department to implement this section are authorized to be paid out of the appropriations. Authorized costs include the actual cost of appraisals, staff time, environmental reviews, surveys, and other similar costs.

(((~~(5)~~))) (4) Intergrant exchanges between common school and other trust lands of equal value may occur if the exchange is in the interest of each trust, as determined by the board of natural resources.

(((~~(6)~~))) (5) Prior to or concurrent with conveyance of these properties, the department, with full cooperation of the receiving agencies, shall execute and record a real property instrument that dedicates the transferred properties to the purposes identified in subsection (1) of this section. Transfer and lease agreements for properties identified in subsection (1) of this section must include terms that restrict the use of the property to the intended purpose. Transfer and lease agreements may include provisions for receiving agencies to request alternative uses of the property, provided the alternative uses are

compatible with the original intended public purpose and the department and legislature approves such uses.

(((~~(7)~~))) (6) The department and receiving agencies shall work in good faith to carry out the intent of this section. However, the department or receiving agencies may remove a property from the transfer list based on new, substantive information, if it is determined that transfer of the property is not in the statewide interest of either the common school trust or the receiving agency.

(((~~(8)~~))) (7) The department shall execute trust land transfers that, after the deduction of reasonable costs as provided in subsection (((~~(4)~~))) (3) of this section, eighty percent of the total value of transferred property is timber value and is deposited in the common school construction account. To achieve the eighty percent requirement, the department may choose to lease properties originally intended as transfers.

(((~~(9)~~))) (8) On June 30, 2009, the state treasurer shall transfer all remaining uncommitted funds from this appropriation to the common school construction account and the appropriations in this section shall be reduced by an equivalent amount.

Appropriation:
State Building Construction Account—State $98,985,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $287,000,000
TOTAL $385,985,000

Sec. 3043. 2007 c 520 s 3214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES
Conversion Land Acquisition (08-1-950)

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for acquisition of working forest lands at risk of conversion to nonforest uses. The legislature finds that the chronic loss of working forest lands threatens the long-term prospects of the timber products industry, which in turn threatens the long-term economic return for the beneficiaries of state trust lands. Acquisition of these conversion lands is intended to help stabilize the primary source of revenue to trust land beneficiaries. The department shall submit a report to the appropriate committees of the legislature by October 1, 2008, indicating the lands purchased under this section, showing the locations, acres, purchase price, and within that purchase price, the value of the property attributed to the future value of timber harvests given an expected rate of return for timber lands, and the value of the property attributed to future development of the property. It is the intention of the legislature to lease or otherwise acquire the development rights of these conversion lands and retain them as long-term working forest lands under the sustainable harvest plan. Working forest lands acquired under this section shall be managed at a level equal to or greater than seventy-five percent of the expected harvest under the sustainable harvest plan. The appropriation provided in this section shall lapse unless chapter 504, Laws of 2007, or similar provisions contained in other legislation, is enacted prior to June 30, 2007. No amounts appropriated in this section shall be expended on the central cascade land exchange unless one of the two following conditions are met: (1) The four

Stemilt parcels in T21R20E are excluded from the exchange; or (2) the four Stemilt parcels in T21R20E are included in the exchange and the department and Chelan county, as chair of the Stemilt partnership, agree on a plan for eventual ownership, disposition, and management of the four Stemilt parcels. The department shall manage cash balances in the natural resources real property replacement account such that cash balances are sufficient for the treasurer transfers required in section 6030 of this act. The department may also transfer funds from the land bank subaccount of the resource management cost account to the natural resources real property replacement account to ensure sufficient cash balances.

Appropriation:
Resource Management Cost Account—State $40,000,000
Natural Resources Real Property Replacement
Account—State. $30,000,000
Subtotal Appropriation $70,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs). $0
TOTAL $70,000,000

NEW SECTION. **Sec. 3044.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES
Potential School Sites-State Trust Land Study (08-2-854)

The appropriation in this section is subject to the following conditions and limitations:

(1) The joint legislative committee on school construction funding finds that high growth school districts are often unable to acquire lands best suited for siting new schools. Current funding capacity is devoted to current needs and land development in rapidly growing areas of the state competes with the present and future need for undeveloped sites to build new schools.

(2) The appropriation in this section is provided solely for the superintendent of public instruction and the commissioner of public lands to establish a work group to analyze the feasibility of and develop options for using existing state lands in high growth areas of the state for potential future school sites. The work group shall: (a) Prepare an inventory of existing state trust lands suitable for use as school sites; (b) prepare a projection of the needs for school sites in high growth school districts; and (c) develop options for holding and valuing the land for future school district use that are consistent with legal requirements and management objectives for state trust lands and any other state lands.

(3) The work group shall report to the legislature by December 1, 2008.

Appropriation:
Resource Management Cost Account—State $30,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Cost) $0
TOTAL $30,000

Sec. 3045. 2007 c 520 s 3219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

Energy Freedom Program (E3SHB No. 2939) (06-2-850)

The reappropriation in this section is subject to the following conditions and limitations: If legislation is enacted by June 30, 2009, that moves the energy freedom program to the department of community, trade, and economic development, then the amounts in this section are appropriated to the department of community, trade, and economic development.

Reappropriation:

Energy Freedom Account—State . . . . . ((~~$5,971,000~~))
$4,471,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

TOTAL . . . . . ((~~$5,971,000~~))
$4,471,000

PART 4
TRANSPORTATION

Sec. 4001. 2007 c 520 s 4004 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

Combined State Agency Aviation Facility (08-2-951)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for predesign and design of a single, consolidated aviation facility, including consolidated operations, at the Olympia airport to house the fixed wing operations of the Washington state patrol, the department of natural resources, and the department of fish and wildlife, and the rotary operations of the department of natural resources. The office of financial management shall not allot design funds until the predesign has undergone a budget evaluation study team review, and the results of the budget evaluation study team review have been provided to the legislative fiscal committees and submitted to the office of financial management for review and approval.

Appropriation:

State Building Construction Account—State . . . . . ((~~$12,000~~))
$376,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $813,000

TOTAL . . . . . ((~~$825,000~~))
$1,189,000

NEW SECTION. **Sec. 4002.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE WASHINGTON STATE PATROL

Higher Education Campus Security Plan (08-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for a needs analysis and fiscal impact study of higher education campus security as generally described in chapter . . . (Second Substitute House Bill No. 2507), Laws of 2008. If the bill is not enacted by June 30, 2008, the appropriation shall lapse.

Appropriation:
State Building Construction Account—State $200,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $200,000

NEW SECTION. **Sec. 4003.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE WASHINGTON STATE PATROL
DNA Crime Lab Computer System (08-2-952)

Appropriation:
State Building Construction Account—State $500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $500,000

NEW SECTION. **Sec. 4004.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE WASHINGTON STATE PATROL
Seattle Crime Lab Expansion (09-2-102)

Appropriation:
State Building Construction Account—State $734,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $6,208,000
TOTAL $6,942,000

NEW SECTION. **Sec. 4005.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION
Culvert Replacements (08-1-001)

Appropriation:
State Building Construction Account—State $5,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $5,000,000

PART 5
EDUCATION

Sec. 5001. 2007 c 520 s 5008 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

School Construction Assistance Grants (08-4-200)

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

(1) For state assistance grants for purposes of calculating square foot eligibility, kindergarten student headcount shall not be reduced by fifty percent.

(2) The legislature has made a commitment to phase in all-day kindergarten programs beginning with the 2007-08 school year. However, the legislature finds that one potential barrier to successful expansion of all-day kindergarten programs may be a lack of facilities that meet the requirements of an all-day kindergarten program. The office of the superintendent of public instruction, in consultation with the school facilities citizen advisory panel, shall examine alternatives for addressing school facilities needs for all-day kindergarten programs, including adapting existing unused space, creating innovative public-private partnerships and partnerships with early learning providers, shifting the location of current programs within a district or a school, and temporary, limited use of portables. The office of the superintendent of public instruction shall submit a report to the capital budget committee of the house of representatives and the ways and means committee of the senate by September 1, 2007, with recommendations on preferred alternatives and an analysis of the feasibility and cost of implementing the alternatives.

(3) Within the amounts appropriated in this section, the office of the superintendent of public instruction shall review and evaluate the cost and other implications of changing the current annual release cycle for the school construction assistance program. The office of the superintendent of public instruction shall prepare a report resulting from their review and evaluation by December 1, 2008. This report must include a specific plan for implementing the change in the 2009-2011 biennium.

Appropriation:

State Building Construction Account—State . . . . . ((~~$109,521,000~~)) $22,394,000

Common School Construction Account—State . . . . . ((~~$770,658,000~~)) $769,185,000

Common School Reimbursable Construction Account—State $180,000

Subtotal Appropriation . . . . . ((~~$880,359,000~~)) $791,759,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) . . . . . ((~~$3,500,725,000~~)) $3,495,689,000

TOTAL . . . . . ((~~$4,381,084,000~~)) $4,287,448,000

NEW SECTION. **Sec. 5002.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Aviation High School (08-1-002)

The appropriation in this section is subject to the following conditions and limitations: $900,000 of the appropriation in this section is provided solely for design costs for a new facility at Aviation high school, to include space that would be colocated at the museum of flight on east marginal way. The office of financial management shall not allot funds for design until the Highline school district has secured an operating agreement for a high school program at the museum of flight site.

Appropriation:
State Building Construction Account—State $1,175,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,175,000

NEW SECTION. **Sec. 5003.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Greenbridge Early Learning Center (08-1-003)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the Puget Sound education district for building the center for the thrive-by-five program.

Appropriation:
State Building Construction Account—State $2,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $2,000,000

NEW SECTION. **Sec. 5004.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
East Yakima Early Learning Center (08-4-860)

Appropriation:
State Building Construction Account—State $100,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $100,000

NEW SECTION. **Sec. 5005.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
North Central Technical Skills Center (08-4-861)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to purchase the option on property owned by the port of Chelan for the north central technical skills center.

Appropriation:
School Construction and Skill Centers
Building Account—State $50,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $50,000

NEW SECTION. **Sec. 5006.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Seattle Skills Center Feasibility Study (08-4-858)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for completion of a comprehensive study for the development of skills center programs in the Seattle school district.

Appropriation:
School Construction and Skill Centers
Building Account—State $75,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $75,000

NEW SECTION. **Sec. 5007.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Satellite/Branch Campus Feasibility Studies (08-4-859)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for comprehensive feasibility studies regarding potential skill center satellite or branch campuses in underserved areas of Washington.

Appropriation:
School Construction and Skill Centers
Building Account—State $475,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $475,000

NEW SECTION. **Sec. 5008.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
K-12 Formula Methods Study (08-2-856)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the office of the superintendent of public instruction to convene a work group to develop methods and options for making the current school construction assistance grant program more transparent in terms of the formula components, assumptions, and expected funding sources for projects funded from the grant program. Within this amount, the office of the superintendent of public instruction shall also develop a pilot template for providing information related to funding sources, including the amount of either bond or other local sources, or both, estimated for each project released in fiscal year 2009. The office of the superintendent of public instruction shall update and consult with the joint legislative task force on school construction funding as work progresses on this effort and must provide a final report to the task force by October 1, 2008.

Appropriation:
Education Construction Account—State $150,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $150,000

NEW SECTION. **Sec. 5009.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Regional School Construction Assistance Program (08-2-857)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the office of the superintendent of public instruction to develop and implement a regional school construction technical assistance program for school districts primarily delivered through educational service districts. The program will be prioritized towards school districts with the greatest need in terms of school construction management and school construction capabilities. In developing and implementing this program, to the maximum extent possible and appropriate, the office of the superintendent of public instruction shall receive assistance from the architectural and engineering services division of the department of general administration and the construction services group based out of educational service district 112. As part of the work, the office of the superintendent of public instruction shall review voluntary model contracts for school construction.

Appropriation:
Education Construction Account—State $1,100,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,100,000

Sec. 5010. 2007 c 520 s 5010 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Vocational Skills Centers (08-4-300)

The appropriation in this section is subject to the following conditions and limitations:

(1) $9,362,000 from this appropriation is provided solely for minor capital projects at all of the state's skills centers ranked with a "severity score" of 40 points or more.

(2) $24,400,000 from this appropriation is provided solely for the design and construction of the Skagit Valley vocational skills center.

(3) ((~~$16,366,000~~)) $15,366,000 from this appropriation is provided solely for the design and construction of the Yakima Valley technical skills center.

(4) $23,161,000 from this appropriation is provided solely for the design and construction of the Sno-Isle skills center.

(5) $1,118,000 from this appropriation is provided solely for the design and construction of the Clark county skills center.

(6) $300,000 from this appropriation is provided solely for the completion of the new market skills center project and to address storm water issues.

Appropriation:

State Building Construction Account—State . . . . . ((~~$74,707,000~~)) $64,354,000

School Construction and Skill Centers Building Account—State $9,353,000

Subtotal Appropriation $73,707,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $83,984,000

TOTAL . . . . . ((~~$158,691,000~~)) $157,691,000

Sec. 5011. 2007 c 520 s 5014 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

K-12 Inventory Pilot Project (08-2-851)

((~~The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for the office of the superintendent of public instruction to define and develop a pilot information management system for public school facilities, building on the experience of the community and technical college facilities information management system. Participating school districts must represent a cross-section of large and small districts, urban and rural districts, and districts with facilities of varying age and condition. The system must allow for the efficient transfer of information between the office of the superintendent of public instruction and participating school districts. The inventory system must include, but not be limited to, facility and site information necessary for appropriate facility stewardship. Data elements may include facility location, condition, type, current use, size, date and cost of original construction, the cost of any major remodeling or renovation, and energy information. By December 1, 2007, the office of the superintendent of public instruction shall provide a report to the appropriate legislative fiscal committees on the inventory system's scope, potential school district participants, and an implementation plan for the pilot group of school districts.~~))

Appropriation:

Education Construction Account—State . . . . . ((~~$900,000~~)) $50,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$900,000~~)) $50,000

NEW SECTION. **Sec. 5012.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Grant County Skills Center (08-4-854)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for predesign and design of the Grant county/Moses Lake school district skills center.

Appropriation:
School Construction and Skill Centers
Building Account—State $927,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $927,000

NEW SECTION. **Sec. 5013.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Northeast King County Skills Center (08-4-855)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for predesign and design of the northeast King county school district skills center.

Appropriation:
School Construction and Skill Centers
Building Account—State $550,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $550,000

NEW SECTION. **Sec. 5014.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Pierce County Skills Center (08-4-856)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for predesign and design of the Pierce county skills center. The office of financial management shall not allot design funds until the predesign has undergone a budget evaluation study team review and the results of the budget evaluation study team review have been provided to the legislative fiscal committees and submitted to the office of

financial management for review and approval. The predesign and design shall identify options for construction of the facility in two phases.

Appropriation:
School Construction and Skill Centers
Building Account—State $3,070,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $3,070,000

NEW SECTION. **Sec. 5015.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Potential School Sites - State Trust Lands Study (08-2-860)

The appropriation in this section is subject to the following conditions and limitations:

(1) The joint legislative committee on school construction funding finds that high growth school districts are often unable to acquire lands best suited for siting new schools. Current funding capacity is devoted to current needs and land development in rapidly growing areas of the state competes with the present and future need for undeveloped sites to build new schools.

(2) The appropriation in this section is provided solely for the superintendent of public instruction and the commissioner of public lands to establish a work group to analyze the feasibility of and develop options for using existing state lands in high growth areas of the state for potential future school sites. The work group shall: (a) Prepare an inventory of existing state trust lands suitable for use as school sites; (b) prepare a projection of the needs for school sites in high growth school districts; and (c) develop options for holding and valuing the land for future school district use that are consistent with legal requirements and management objectives for state trust lands and any other state lands.

(3) The work group shall report to the legislature by December 1, 2008.

Appropriation:
Education Construction Account—State $25,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $25,000

NEW SECTION. **Sec. 5016.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Enrollment Projections Evaluation Study (08-2-859)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the office of the superintendent of public instruction to contract with a research organization to conduct an evaluation of the accuracy and reliability of the current method used for forecasting school district enrollment for determining eligibility for the

school assistance program. This evaluation must also include a review of different methodologies used by school districts in projecting their enrollment for capital planning and budgeting purposes. A final report resulting from this evaluation must be submitted by January 1, 2009.

Appropriation:
Education Construction Account—State $150,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $150,000

Sec. 5017. 2007 c 520 s 5016 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND
Minor Works - Facility Preservation (08-1-005)

Appropriation:
State Building Construction Account—State . . . . . ((~~$770,000~~))
$470,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $2,500,000
TOTAL . . . . . ((~~$3,270,000~~))
$2,970,000

Sec. 5018. 2007 c 520 s 5017 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND
New Physical Education Center (08-2-001)

Appropriation:
State Building Construction Account—State . . . . . ((~~$9,000,000~~))
$9,300,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$9,000,000~~))
$9,300,000

NEW SECTION. **Sec. 5019.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON
UW Tacoma - Land Acquisition (09-2-003)

Appropriation:
Education Construction Account—State $2,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $2,000,000

NEW SECTION. **Sec. 5020.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON
UW Tacoma - Soils Remediation (08-2-852)

Appropriation:
State Toxics Control Account—State $1,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,000,000

NEW SECTION. **Sec. 5021.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE UNIVERSITY OF WASHINGTON
Burke Museum Renovation (08-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for a predesign study for renovation of the Burke museum. The predesign must include a feasibility study and plan for covering at least one-third of the projected renovation cost through nonstate sources.

Appropriation:
State Building Construction Account—State $300,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $300,000

Sec. 5022. 2007 c 520 s 5086 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY
Dean Hall Renovation (06-1-004)

The appropriation in this section is subject to the following conditions and limitations: $1,300,000 of the appropriation is provided solely for furnishings and equipment.

Reappropriation:
State Building Construction Account—State $924,000
Appropriation:
State Building Construction Account—State . . . . . ((~~$23,200,000~~))
$24,500,000

Prior Biennia (Expenditures) $1,276,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$25,400,000~~))
$26,700,000

Sec. 5023. 2007 c 520 s 5100 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE
Daniel J. Evans Building - Modernization (04-2-006)

The appropriation in this section is subject to the following conditions and limitations: $1,983,000 of the appropriation is provided solely to finish renovation of the library building by addressing issues of the aging infrastructure while incorporating programmatic needs of the institution.

Reappropriation:
Gardner-Evans Higher Education Construction Account—State $20,250,000
Appropriation:
Education Construction Account—State $1,465,000
State Building Construction Account—State $518,000
Subtotal Appropriation $1,983,000
Prior Biennia (Expenditures) $24,500,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$44,750,000~~))
$46,733,000

Sec. 5024. 2007 c 520 s 5117 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY
Minor Works - Health, Safety, and Code (06-1-082)

Reappropriation:
State Building Construction Account—State . . . . . ((~~$850,000~~))
$727,000

Prior Biennia (Expenditures) $1,240,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$2,090,000~~))
$1,967,000

Sec. 5025. 2007 c 520 s 5118 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY
Minor Works - Infrastructure Preservation (06-1-084)

Reappropriation:
State Building Construction Account—State . . . . . ((~~$850,000~~))
$657,000

Prior Biennia (Expenditures) $1,375,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$2,225,000~~))
$2,032,000

Sec. 5026. 2007 c 520 s 5119 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY
Minor Works - Program (06-2-085)

Reappropriation:
Western Washington University Capital Projects Account—State . . . . . ((~~$2,200,000~~))
$1,239,000

Prior Biennia (Expenditures) $5,522,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$7,722,000~~))
$6,761,000

Sec. 5027. 2007 c 520 s 5128 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Pacific - Lewis and Clark Station Camp Park Project (02-S-001)

Reappropriation:
State Building Construction Account—State $666,000
Appropriation:
State Building Construction Account—State $1,935,000

Prior Biennia (Expenditures) $1,885,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$2,551,000~~))
$4,486,000

NEW SECTION. **Sec. 5028.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Olympia - State Capitol Museum: Building Preservation (08-1-002)

Appropriation:
State Building Construction Account—State $207,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $207,000

Sec. 5029. 2007 c 520 s 5145 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Museum System Repair and Upgrades/Preservation (08-1-013)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for preservation projects ((~~and to~~)), system repair, and ((~~upgrade~~)) museum ((~~systems~~)) upgrades to enhance delivery of exhibits and K-12 education and American Indian programs.

Appropriation:
State Building Construction Account—State $1,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,000,000

Sec. 5030. 2007 c 520 s 5217 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce College Fort Steilacoom: Cascade Core Phase I (06-1-326)

Reappropriation:
State Building Construction Account—State $1,000,000
Appropriation:
State Building Construction Account—State . . . . . ((~~$14,602,000~~))
$17,602,000
Community/Technical College Capital Projects
Account—State $1,000,000

Subtotal Appropriation $18,602,000

Prior Biennia (Expenditures) $2,350,000
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$17,952,000~~))
$21,952,000

Sec. 5031. 2007 c 520 s 5255 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Minor Works - Preservation - Repairs and Minor Improvements (08-1-001)

Appropriation:
Community/Technical College Capital Projects
Account—State . . . . . ((~~$16,000,000~~))
$15,000,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $70,000,000
TOTAL . . . . . ((~~$86,000,000~~))
$85,000,000

Sec. 5032. 2007 c 520 s 5275 (uncodified) is amended to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Higher Education Cost Escalation (08-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the state board for community and technical colleges to assist public community and technical colleges in managing unanticipated cost escalation for projects bid during the 2007-2009 biennium. Not more than $750,000 shall be made available to any single project and amounts provided for this purpose must be matched equally from other resources. The board shall manage the distribution of funds to ensure that the requesting college has managed its project within the current appropriation through preparation of bid documents and that the scope of the project is no greater than was originally specified in the design. Prior to the office of financial management approving use of a minor works appropriation as a match, and its transfer to the project with unanticipated cost escalation, the board shall require the college to describe what it has done to identify and develop alternative resources for a match, and the specific minor works projects that would be deferred as a result of the transfer. The board will report to the office of financial management and the appropriate fiscal committees of the legislature on the use of these funds.

Appropriation:
State Building Construction Account—State . . . . . ((~~$3,238,000~~))
$2,238,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL . . . . . ((~~$3,238,000~~))
$2,238,000

NEW SECTION. **Sec. 5033.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue Community College: L Building Emergency Repairs (08-1-850)

Appropriation:

State Building Construction Account—State $1,663,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $1,663,000

NEW SECTION. **Sec. 5034.** A new section is added to 2007 c 520 (uncodified) to read as follows:

FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Yakima Valley Community College - Skills Center (08-2-852)

Appropriation:

State Building Construction Account—State $1,000,000
School Construction and Skill Centers
Building Account—State $1,500,000
Subtotal Appropriation $2,500,000

Prior Biennia (Expenditures) $0
Future Biennia (Projected Costs) $0
TOTAL $2,500,000

PART 6
MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

Sec. 6001. 2007 c 520 s 6013 (uncodified) is amended to read as follows:

ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS. The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

Those noninstructional facilities of higher education institutions authorized in this section to enter into financial contracts are not eligible for state funded

maintenance and operations. Instructional space that is available for regularly scheduled classes for academic transfer, basic skills, and workforce training programs may be eligible for state funded maintenance and operations.

(1) Washington state patrol: Enter into a financing contract for up to $1,360,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to replace the dormitory facility at the Washington state patrol fire training academy in North Bend, Washington.

(2) Department of general administration: Enter into a financing contract for up to $685,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the preservation of the transportation building.

(3) Department of corrections: Enter into a financing contract for up to $17,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to provide additional work release beds.

(4) Parks and recreation commission: Enter into a financing contract in an amount not to exceed $2,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop Cama Beach state park.

(5) Community and technical colleges:

(a) Enter into a financing contract on behalf of Green River Community College for up to $20,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase Kent Station phase 2.

(b) Enter into a financing contract on behalf of Tacoma Community College for up to $3,600,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an early childhood education and learning center.

(c) Enter into a financing contract on behalf of Walla Walla Community College for up to $1,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase up to 40 acres of land.

(d) Enter into a financing contract on behalf of Columbia Basin College for up to $300,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop an academic support and achievement center.

(e) Enter into a financing contract on behalf of Wenatchee Valley College for up to $3,347,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a 72 bed student housing facility.

(f) Enter into a financing contract on behalf of Seattle Central Community College for up to $3,100,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase property adjacent the main campus.

(6) Evergreen State College: Enter into a financing contract for up to $16,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the college activities building renovation.

(7) Washington state convention and trade center: Enter into a financing contract for up to $58,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase and renovate the museum condominium unit located adjacent to the state convention center. The purchase price shall not exceed fair market value. A purchase agreement with the owner of the unit on the effective date of this section shall include the following requirements: (a) Upon completion of the purchase of the property, the seller shall retain $5,750,000 of the sale proceeds in a restricted investment account, reserving such funds for capital costs associated with development of its principal heritage center to be located within the city of Seattle. Principal and

accrued earnings in such an account shall be available for expenditure by the seller when the seller or the city of Seattle has executed a construction contract for either a new facility or improvements to an existing structure to serve as the principal heritage center to be operated by the seller within the city; and (b) in the event that the conditions of (a) of this subsection are not met by June 30, 2017, the entire amount in the restricted account shall be transferred to the state general fund and shall represent a recovery of the state's contribution towards the development of the museum. In the event of such a transfer, the rightful ownership of the property by the Washington state convention and trade center shall not be impaired.

(8) Department of information services: Enter into a financing contract for an amount approved by the office of financial management for costs and financing expenses and required reserves pursuant to chapter 39.94 RCW to lease develop or lease purchase a state general office building and facilities for the department of information services on the state-owned property called "the Wheeler block" in Olympia. The office buildings shall be constructed and financed so that agencies occupancy costs per gross square foot or per employee will not exceed 110 percent of comparable private market rental rates per gross square foot or per employee. The comparable general office space rate shall be calculated based on recent Thurston county leases of new space of at least 100,000 rentable square feet adjusted for known escalation clauses, expected inflation, and differences in the level of service provided by the comparable leases as determined by the department in consultation with the department of general administration. In addition to the department of information services, state agency tenants shall include the consolidation of state patrol offices and general office facilities for small agencies and offices. The department of information services shall design and operate the general office facilities for small agencies and offices as a demonstration of the efficiencies gained from the integration of office space and telecommunications and computer technology. The demonstration project shall provide office space, furniture, telecommunications, and computer technology as a single package. The facility shall be designed so that small agencies and offices can move in and out of the facility without the typical moving expenses that result from individual agency ownership of furniture and technology. The facility for small agencies and offices shall also provide for staffing and space efficiencies resulting from central reception, support services, and spaces. The office of financial management shall certify to the state treasurer: (a) The project description and dollar amount; and (b) that all requirements of this subsection (8) have been met. Should the department of information services choose to use a financing contract that does not provide for the issuance of certificates of participation, the financing contract shall be subject to approval by the state finance committee as required by RCW 39.94.010. In approving a financing contract not providing for the use of certificates of participation, the state finance committee should be reasonably certain that the contract is excluded from the computation of indebtedness, particularly that the contract is not backed by the full faith and credit of the state and the legislature is expressly not obligated to appropriate funds to make payments. For purposes of this section, "financing contract" includes but is not limited to a certificate of participation and tax exempt financing similar to that authorized in RCW 47.79.140.

(9) Office of the secretary of state: Enter into a financing contract for up to ((~~$112,942,000~~)) $134,935,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the heritage center. The heritage center is one part of a combined facility of the heritage center and executive office building, authorized in subsection (10) of this section. The authorization for financing under this subsection (9) shall lapse unless chapter 523, Laws of 2007 is enacted by June 30, 2007.

(10) Department of general administration:

(a) Enter into a financing contract for up to ((~~$75,863,000~~)) $79,981,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the executive office building. The executive office building is one part of a combined facility of the executive office building and the heritage center authorized in subsection (9) of this section. The authorization for financing under this subsection (10) shall lapse unless chapter 523, Laws of 2007 is enacted by June 30, 2007.

(b) Enter into a financing contract for up to $17,144,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the rehabilitation of the John L. O'Brien building, subject to approval of the project scope by the speaker of the house of representatives and the chief clerk of the house of representatives.

(c) Enter into a financing contract for up to $2,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the "Perry street child care site" renovations and purchase.

(d) Enter into a financing contract for up to $2,685,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for land acquisition in Olympia, Washington.

(11) Department of ecology: Enter into a financing contract for up to $11,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to rebuild the east wall of the department of ecology's headquarters building in Lacey, Washington.

Sec. 6002. RCW 43.155.050 and 2007 c 520 s 6036 are each amended to read as follows:

(1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. For the 2007-2009 biennium, moneys in the account may be used for grants for projects identified in section 138, chapter 488, Laws of 2005, for the infrastructure investment system implementation plan identified

in section 1022 of this act; for the interest rate buy-down pilot program identified in section 1004 of this act; and for the housing assistance, weatherization, and affordable housing program identified in section 1005 of this act.

(2) The job development fund is hereby established in the state treasury. Up to fifty million dollars each biennium from the public works assistance account may be transferred into the job development fund. Money in the job development fund may be used solely for job development fund program grants, administrative expenses related to the administration of the job development fund program created in RCW 43.160.230, and for the report prepared by the joint legislative audit and review committee pursuant to RCW 44.28.801(2). Moneys in the job development fund may be spent only after appropriation. The board shall prepare a prioritized list of proposed projects of up to fifty million dollars as part of the department's 2007-09 biennial budget request. The board may provide an additional alternate job development fund project list of up to ten million dollars. The legislature may remove projects from the list recommended by the board. The legislature may not change the prioritization of projects recommended for funding by the board, but may add projects from the alternate list in order of priority, as long as the total funding does not exceed fifty million dollars.

Sec. 6003. RCW 48.02.190 and 2007 c 153 s 3 and 2007 c 468 s 1 are each reenacted and amended to read as follows:

(1) As used in this section:

(a) "Organization" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do business in this state, every health care service contractor, as defined in RCW 48.44.010, every health maintenance organization, as defined in RCW 48.46.020, or self-funded multiple employer welfare arrangement, as defined in RCW 48.125.010, registered to do business in this state. "Class one" organizations shall consist of all insurers as defined in RCW 48.01.050. "Class two" organizations shall consist of all organizations registered under provisions of chapters 48.44 and 48.46 RCW. "Class three" organizations shall consist of self-funded multiple employer welfare arrangements as defined in RCW 48.125.010.

(b)(i) "Receipts" means (A) net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021, and (B) prepayments to health care service contractors, as defined in RCW 48.44.010, health maintenance organizations, as defined in RCW 48.46.020, or participant contributions to self-funded multiple employer welfare arrangements, as defined in RCW 48.125.010, less experience rating credits, dividends, prepayments returned to subscribers, and payments for contracts not taken.

(ii) Participant contributions, under chapter 48.125 RCW, used to determine the receipts in this state under this section shall be determined in the same manner as premiums taxable in this state are determined under RCW 48.14.090.

(c) "Regulatory surcharge" means the fees imposed by this section.

(2) The annual cost of operating the office of insurance commissioner shall be determined by legislative appropriation. A pro rata share of the cost shall be charged to all organizations as a regulatory surcharge. Each class of organization shall contribute a sufficient amount to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.

(3) The regulatory surcharge shall be calculated separately for each class of organization. The regulatory surcharge collected from each organization shall be that portion of the cost of operating the insurance commissioner's office, for that class of organization, for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received by all organizations within that class on business in this state during the previous calendar year. However, the regulatory surcharge must not exceed one-eighth of one percent of receipts and the minimum regulatory surcharge shall be one thousand dollars.

(4) The commissioner shall annually, on or before June 1st, calculate and bill each organization for the amount of the regulatory surcharge. The regulatory surcharge shall be due and payable no later than June 15th of each year. However, if the necessary financial records are not available or if the amount of the legislative appropriation is not determined in time to carry out such calculations and bill such regulatory surcharge within the time specified, the commissioner may use the regulatory surcharge factors for the prior year as the basis for the regulatory surcharge and, if necessary, the commissioner may impose supplemental fees to fully and properly charge the organizations. Any organization failing to pay the regulatory surcharges by June 30th shall pay the same penalties as the penalties for failure to pay taxes when due under RCW 48.14.060. The regulatory surcharge required by this section is in addition to all other taxes and fees now imposed or that may be subsequently imposed.

(5) All moneys collected shall be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.

(6) Unexpended funds in the insurance commissioner's regulatory account at the close of a fiscal year shall be carried forward in the insurance commissioner's regulatory account to the succeeding fiscal year and shall be used to reduce future regulatory surcharges. During the 2007-2009 fiscal biennium, the legislature may transfer from the insurance commissioner's regulatory account to the Washington state heritage center account such amounts as reflect excess fund balance in the account.

(7)(a) Each insurer may annually collect regulatory surcharges remitted in preceding years by means of a policyholder surcharge on premiums charged for all kinds of insurance. The recoupment shall be at a uniform rate reasonably calculated to collect the regulatory surcharge remitted by the insurer.

(b) If an insurer fails to collect the entire amount of the recoupment in the first year under this section, it may repeat the recoupment procedure provided for in this subsection (7) in succeeding years until the regulatory surcharge is fully collected or a de minimis amount remains uncollected. Any such de minimis amount may be collected as provided in (d) of this subsection.

(c) The amount and nature of any recoupment shall be separately stated on either a billing or policy declaration sent to an insured. The amount of the recoupment must not be considered a premium for any purpose, including the premium tax or agents' commissions.

(d) An insurer may elect not to collect the regulatory surcharge from its insured. In such a case, the insurer may recoup the regulatory surcharge through its rates, if the following requirements are met:

(i) The insurer remits the amount of surcharge not collected by election under this subsection; and

(ii) The surcharge is not considered a premium for any purpose, including the premium tax or agents' commission.

Sec. 6004. RCW 79.64.020 and 2004 c 199 s 226 are each amended to read as follows:

A resource management cost account in the state treasury is created to be used solely for the purpose of defraying the costs and expenses necessarily incurred by the department in managing and administering state lands and aquatic lands and the making and administering of leases, sales, contracts, licenses, permits, easements, and rights-of-way as authorized under the provisions of this title. Appropriations from the resource management cost account to the department shall be expended for no other purposes. Funds in the resource management cost account may be appropriated or transferred by the legislature for the benefit of all of the trusts from which the funds were derived. For the 2007-2009 biennium, moneys in the account may be used for the purposes identified in section 3044 of this act.

Sec. 6005. RCW 40.14.024 and 2003 c 163 s 3 are each amended to read as follows:

The local government archives account is created in the state treasury. All receipts collected by the county auditors under RCW 40.14.027 and 36.22.175 for local government services, such as providing records scheduling, security microfilm inspection and storage, archival preservation, cataloging, and indexing for local government records and digital data and access to those records and data through the regional branch archives of the division of archives and records management, must be deposited into the account, and expenditures from the account may be used only for these purposes. During the 2007-2009 biennium, the legislature may transfer from the local government archives account to the Washington state heritage center account such amounts as reflect the excess fund balance in the account.

Sec. 6006. RCW 36.22.175 and 2003 c 163 s 5 are each amended to read as follows:

(1)(a) In addition to any other charge authorized by law, the county auditor shall charge a surcharge of one dollar per instrument for each document recorded. Revenue generated through this surcharge shall be transmitted monthly to the state treasurer for deposit in the local government archives account under RCW 40.14.024. These funds shall be used solely for providing records scheduling, security microfilm inspection and storage, archival preservation, cataloging, and indexing for local government records and digital data and access to those records and data through the regional branch archives of the division of archives and records management.

(b) The division of archives and records management within the office of the secretary of state shall provide records management training for local governments and shall establish a competitive grant program to solicit and prioritize project proposals from local governments for potential funding to be

paid for by funds from the auditor surcharge and tax warrant surcharge revenues. Application for specific projects may be made by local government agencies only. The state archivist in consultation with the advisory committee established under RCW 40.14.027 shall adopt rules governing project eligibility, evaluation, awarding of grants, and other criteria including requirements for records management training for grant recipients.

(2) The advisory committee established under RCW 40.14.027 shall review grant proposals and establish a prioritized list of projects to be considered for funding by January 1st of each even-numbered year, beginning in 2002. The evaluation of proposals and development of the prioritized list must be developed through open public meetings. Funding for projects shall be granted according to the ranking of each application on the prioritized list and projects will be funded only to the extent that funds are available. A grant award may have an effective date other than the date the project is placed on the prioritized list.

(3)(a) In addition to any other surcharge authorized by law, the county auditor shall charge a surcharge of one dollar per instrument for every document recorded after January 1, 2002. Revenue generated through this surcharge shall be transmitted to the state treasurer monthly for deposit in the local government archives account under RCW 40.14.024 to be used exclusively for: (i) The construction and improvement of a specialized regional facility located in eastern Washington designed to serve the archives, records management, and digital data management needs of local government; and (ii) payment of the certificate of participation issued for the Washington state heritage center to the extent there is an excess fund balance in the account and fees generated under RCW 36.18.010 and 43.07.128 are insufficient to meet debt service payments on the certificate of participation.

(b) To the extent the facilities are used for the storage and retrieval of state agency records and digital data, that portion of the construction of such facilities used for state government records and data shall be supported by other charges and fees paid by state agencies and shall not be supported by the surcharge authorized in this subsection, except that to the extent there is an excess fund balance in the account and fees generated under RCW 36.18.010 and 43.07.128 are insufficient to meet debt service payments for the Washington state heritage center, the local government archives account under RCW 40.14.024 may be used for the Washington state heritage center.

(c) At such time that all debt service from construction ((~~on such facility~~)) of the specialized regional archive facility located in eastern Washington has been paid, fifty percent of the surcharge authorized by this subsection shall be reverted to the centennial document preservation and modernization account as prescribed in RCW 36.22.170 and fifty percent of the surcharge authorized by this section shall be reverted to the state treasurer for deposit in the archives and records management account to serve the archives, records management, and digital data management needs of local government, except that the state treasurer shall not revert funds to the centennial document preservation and modernization account and to the archives and records management account if fees generated under RCW 36.18.010 and 43.07.128 are insufficient to meet debt service payments on the Washington state heritage center.

Sec. 6007. RCW 43.09.282 and 1995 c 301 s 20 are each amended to read as follows:

For the purposes of centralized funding, accounting, and distribution of the costs of the audits performed on local governments by the state auditor, there is hereby created an account entitled the municipal revolving account. The state treasurer shall be custodian of the account. All moneys received by the state auditor or by any officer or employee thereof shall be deposited with the state treasurer and credited to the municipal revolving account. Only the state auditor or the auditor's designee may authorize expenditures from the account. No appropriation is required for expenditures. The state auditor shall keep such records as are necessary to detail the auditing costs attributable to the various types of local governments. During the 2007-2009 fiscal biennium, the legislature may transfer from the municipal revolving account to the Washington state heritage center account such amounts as reflect excess fund balance in the account.

NEW SECTION. **Sec. 6008.** A new section is added to 2007 c 520 (uncodified) to read as follows:

The joint legislative audit and review committee shall conduct an evaluation of the accuracy of capital project cost estimates prepared by state agencies for their budget requests. The evaluation shall include a review of the methods used to prepare estimates at agencies with large capital programs, a review of the process used by the office of financial management and legislative fiscal committees to evaluate project cost estimates, and an analysis of the accuracy of project cost estimates compared to actual project costs over time for a subset of projects. The evaluation will also recommend other areas of capital project risk for assessment in future evaluations. The joint legislative audit and review committee shall submit a report to the relevant fiscal committees of the legislature by August 2009.

Sec. 6009. RCW 70.105D.070 and 2007 c 522 s 954, 2007 c 520 s 6033, 2007 c 446 s 2, and 2007 c 341 s 30 are each reenacted and amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment.

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, shall, except as conditioned by RCW 70.105D.120, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process.

(c) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe

drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(d) To expedite cleanups throughout the state, the department shall partner with local communities and liable parties for cleanups. The department is authorized to use the following additional strategies in order to ensure a healthful environment for future generations:

(i) The director may alter grant-matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(A) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(B) Funding would create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or

(C) Funding would create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property under RCW 70.105D.040(5) that would not otherwise occur;

(ii) The use of outside contracts to conduct necessary studies;

(iii) The purchase of remedial action cost-cap insurance, when necessary to expedite multiparty clean-up efforts.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2007-2009 fiscal biennium, the legislature may transfer from the local toxics control account to the state toxics control account such amounts as reflect excess fund balance in the account.

Sec. 6010. 2007 c 520 s 6032 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS

Education Construction Account: For transfer to the Common School Construction, an amount not to exceed . . . . . ((~~$138,200,000~~)) $133,930,000

Education Savings Account: For transfer to the Common School Construction Account, an amount not to exceed . . . . . ((~~$43,400,000~~)) $103,063,000

State Convention and Trade Center Account: For transfer to the Washington Housing Trust Account, an amount not to exceed $8,000,000

Public Works Assistance Account: For transfer to the Washington Housing Trust Account, an amount not to exceed $2,800,000

Local Government Archives Account: For transfer to the Washington State Heritage Center Account $4,000,000

Insurance Commissioner's Regulatory Account: For transfer to the Washington State Heritage Center Account in July 2008 . . . . . $1,500,000

Municipal Revolving Account: For transfer to the Washington State Heritage Center Account $500,000

Local Toxics Control Account: For transfer to the State Toxics Control Account $3,000,000

Sec. 6011. RCW 67.40.040 and 2007 c 228 s 106 are each amended to read as follows:

(1) The proceeds from the sale of the bonds authorized in RCW 67.40.030, proceeds of the taxes imposed under RCW 67.40.090 and 67.40.130, and all other moneys received by the state convention and trade center from any public or private source which are intended to fund the acquisition, design, construction, expansion, exterior cleanup and repair of the Eagles building, conversion of various retail and other space to meeting rooms, purchase of the land and building known as the McKay Parcel, development of low-income housing, or renovation of the center, and those expenditures authorized under RCW 67.40.170 shall be deposited in the state convention and trade center account hereby created in the state treasury and in such subaccounts as are deemed appropriate by the directors of the corporation.

(2) Moneys in the account, including unanticipated revenues under RCW 43.79.270, shall be used exclusively for the following purposes in the following priority:

(a) For reimbursement of the state general fund under RCW 67.40.060;

(b) After appropriation by statute:

(i) For payment of expenses incurred in the issuance and sale of the bonds issued under RCW 67.40.030;

(ii) For expenditures authorized in RCW 67.40.170, and during the 2007-2009 biennium, the legislature may transfer from the state convention and trade

center account to the Washington housing trust account such amounts as reflect the excess fund balance in the account;

(iii) For acquisition, design, and construction of the state convention and trade center;

(iv) For debt service for the acquisition, design, and construction and retrofit of the museum of history and industry museum property or other future expansions of the convention center as approved by the legislature; and

(v) For reimbursement of any expenditures from the state general fund in support of the state convention and trade center; and

(c) For transfer to the state convention and trade center operations account.

(3) The corporation shall identify with specificity those facilities of the state convention and trade center that are to be financed with proceeds of general obligation bonds, the interest on which is intended to be excluded from gross income for federal income tax purposes. The corporation shall not permit the extent or manner of private business use of those bond-financed facilities to be inconsistent with treatment of such bonds as governmental bonds under applicable provisions of the Internal Revenue Code of 1986, as amended.

(4) In order to ensure consistent treatment of bonds authorized under RCW 67.40.030 with applicable provisions of the Internal Revenue Code of 1986, as amended, and notwithstanding RCW 43.84.092, investment earnings on bond proceeds deposited in the state convention and trade center account in the state treasury shall be retained in the account, and shall be expended by the corporation for the purposes authorized under chapter 386, Laws of 1995 and in a manner consistent with applicable provisions of the Internal Revenue Code of 1986, as amended.

(5) Subject to the conditions in subsection (6) of this section, starting in fiscal year 2008, the state treasurer shall transfer:

(a) The sum of four million dollars, or as much as may be available pursuant to conditions set forth in this section, from the state convention and trade center account to the tourism enterprise account, with the maximum transfer being four million dollars per fiscal year; and

(b) The sum of five hundred thousand dollars, or as much as may be available pursuant to conditions set forth in this section, from the state convention and trade center account to the tourism development and promotion account, with the maximum transfer being five hundred thousand dollars per fiscal year.

(6)(a) Funds required for debt service payments and reserves for bonds issued under RCW 67.40.030; for debt service authorized under RCW 67.40.170; and for the issuance and sale of financial instruments associated with the acquisition, design, construction, and retrofit of the museum of history and industry museum property or for other future expansions of the center, as approved by the legislature, shall be maintained within the state convention and trade center account.

(b) No less than six million one hundred fifty thousand dollars per year shall be retained in the state convention and trade center account for funding capital maintenance as required by the center's long-term capital plan, facility enhancements, unanticipated replacements, and operating reserves for the convention center operation. This amount shall be escalated annually as follows:

(i) Four percent for annual inflation for capital maintenance, repairs, and replacement;

(ii) An additional two percent for enhancement to the facility; and

(iii) An additional three percent for growth in expenditure due to aging of the facility and the need to maintain an operating reserve.

(c) Sufficient funds shall be reserved within the state convention and trade center account to fund operating appropriations for the annual operation of the convention center.

Sec. 6012. RCW 79.17.010 and 2003 1st sp.s. c 25 s 939 are each amended to read as follows:

(1) The department, with the approval of the board, may exchange any state land and any timber thereon for any land of equal value in order to:

(a) Facilitate the marketing of forest products of state lands;

(b) Consolidate and block-up state lands;

(c) Acquire lands having commercial recreational leasing potential;

(d) Acquire county-owned lands;

(e) Acquire urban property which has greater income potential or which could be more efficiently managed by the department in exchange for state urban lands as defined in RCW 79.19.100; or

(f) Acquire any other lands when such exchange is determined by the board to be in the best interest of the trust for which the state land is held.

(2) Land exchanged under this section shall not be used to reduce the publicly owned forest land base.

(3) The board shall determine that each land exchange is in the best interest of the trust for which the land is held prior to authorizing the land exchange.

(4) During the biennium ending June 30, ((~~2005, the department, with approval of the board, may exchange any state land and any timber thereon for any land and proceeds of equal value~~)) 2009, for the purposes of maintaining working farm and forest landscapes or acquiring natural resource lands at risk of development, the department, with approval of the board of natural resources, may exchange any state land and any timber thereon for any land and proceeds of equal value, when it can be demonstrated that the trust fiduciary obligations can be better fulfilled after an exchange is completed. Proceeds may be in the form of cash or services in order to achieve the purposes established in this section. Any cash received as part of an exchange transaction shall be deposited in the resource management cost account to pay for administrative expenses incurred in carrying out an exchange transaction. The amount of proceeds received from the exchange partner may not exceed five percent of the total value of the exchange. The receipt of proceeds shall not change the character of the transaction from an exchange to a sale.

(5) Prior to executing an exchange under this section, and in addition to the public notice requirements set forth in RCW 79.17.050, the department shall consult with legislative members, other state and federal agencies, local governments, tribes, local stakeholders, conservation groups, and any other interested parties to identify and address cultural resource issues and the potential of the state lands proposed for exchange to be used for open space, park, school, or critical habitat purposes.

Sec. 6013. RCW 79.17.020 and 2003 1st sp.s. c 25 s 937 and 2003 c 334 s 209 are each reenacted and amended to read as follows:

(1) The board of county commissioners of any county and/or the mayor and city council or city commission of any city or town and/or the board shall have authority to exchange, each with the other, or with the federal forest service, the federal government or any proper agency thereof and/or with any private landowner, county land of any character, land owned by municipalities of any character, and state forest land owned by the state under the jurisdiction of the department, for real property of equal value for the purpose of consolidating and blocking up the respective land holdings of any county, municipality, the federal government, or the state of Washington or for the purpose of obtaining lands having commercial recreational leasing potential.

(2) During the biennium ending June 30, ((~~2005, the department, with approval of the board, may exchange any state forest land and any timber thereon for any real property and proceeds of equal value~~)) 2009, for the purposes of maintaining working farm and forest landscapes or acquiring natural resource lands at risk of development, the department, with approval of the board of natural resources, may exchange any state land and any timber thereon for any land and proceeds of equal value, when it can be demonstrated that the trust fiduciary obligations can be better fulfilled after an exchange is completed. Proceeds may be in the form of cash or services in order to achieve the purposes established in this section. Any cash received as part of an exchange transaction shall be deposited in the forest development account to pay for administrative expenses incurred in carrying out an exchange transaction. The amount of proceeds received from the exchange partner may not exceed five percent of the total value of the exchange. The receipt of proceeds shall not change the character of the transaction from an exchange to a sale.

(3) Prior to executing an exchange under this section, and in addition to the public notice requirements set forth in RCW 79.17.050, the department shall consult with legislative members, other state and federal agencies, local governments, tribes, local stakeholders, conservation groups, and any other interested parties to identify and address cultural resource issues, and the potential of the state lands proposed for exchange to be used for open space, park, school, or critical habitat purposes.

Sec. 6014. 2007 c 520 s 6016 (uncodified) is amended to read as follows:

(1) A joint legislative task force on school construction funding is established to review the following:

(a) The statutory provisions regarding the funding of school construction projects;

(b) Eligibility requirements and distribution formulas for the state's school construction assistance grant program;

(c) Flexibility needed in the system to address diverse district and geographic needs including, but not limited to, the construction needs unique to high growth areas, as well as the needs of school districts that have experienced consecutive school levy failures; and

(d) Potential revenue sources and alternative funding mechanisms for school construction including, but not limited to, funding mechanisms that may: (i) Phase out and replace revenue collected under RCW 82.02.050 through 82.02.100 for school facilities; and (ii) encourage cooperative partnerships with

early learning providers, skill centers, community and technical colleges, or public baccalaureate institutions through the use of a supermatch concept.

(2) The office of the superintendent of public instruction shall provide progress updates to the task force on the development of the pilot inventory of school district facility information and the design of a process for developing a ten-year projection of the facility needs of school districts as provided for in section 5014 of this act for review and comment by the task force.

(3)(a) The joint legislative task force on school construction funding shall consist of eight members, two members each, one from each major caucus, from the house of representatives committees on capital budget and education, appointed by the speaker of the house of representatives, and two members each, one from each major caucus, from the senate committees on ways and means and early learning and K-12 education, appointed by the president of the senate.

(b) The president of the senate and the speaker of the house of representatives jointly shall appoint two members representing school districts.

(c) The office of the superintendent of public instruction and the office of financial management shall cooperate with the task force and maintain liaison representatives.

(d) The task force shall coordinate with the appropriate standing committees of the legislature and may consult with other interested parties, as may be appropriate, for technical advice and assistance.

(e) The task force shall select a chair from among its legislative membership.

(4) Staff support for the task force must be provided by the house of representatives office of program research and the senate committee services.

(5) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(7) The task force must report ((~~its~~)) preliminary findings and recommendations to the appropriate committees of the legislature by December 1, 2007, and a final report by January 1, 2009.

NEW SECTION. **Sec. 6015.** A new section is added to 2007 c 520 (uncodified) to read as follows:

(1) A joint task force on local financing options for affordable housing, arts, cultural, education, civic center, Puget Sound restoration and preservation, youth recreation, and community development projects within King county is established. The task force shall review only existing King county-specific revenue options to fund housing, arts, cultural, civic center, Puget Sound restoration and preservation, youth recreation, and community development projects in King county. Such options must include, but are not limited to, admissions, car rental, hotel/motel, restaurant, and other sources currently used to pay for the construction, financing, and mitigation of Safeco and Qwest fields and financing of the Kingdome debt.

(2) The speaker of the house of representatives and the majority leader of the senate shall select members from each of the two largest caucuses in the house of representatives and each of the two largest caucuses in the senate to serve on the task force. The governor shall appoint a representative from the governor's office to serve on the task force. The task force shall not exceed seven members in total.

(3) The task force may seek assistance from members of the senate and house of representatives and other interested parties to provide advice and technical assistance.

(4) Staff support for the task force study group must be provided by the house of representatives office of program research and the senate committee services.

(5) Legislative members of the task force may be reimbursed for travel expenses in accordance with RCW 44.04.120.

(6) The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(7) The task force must report its findings and recommendations to the appropriate committees of the legislature by December 1, 2008.

(8) The task force study group expires April 30, 2009.

Sec. 6016. RCW 43.19.501 and 1994 c 219 s 18 are each amended to read as follows:

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department of general administration in Thurston county. For the 2007-2009 biennium, moneys in the account may be used for predesign identified in section 1037 of this act.

Sec. 6017. RCW 43.99N.060 and 2007 c 241 s 11 are each amended to read as follows:

(1) The stadium and exhibition center account is created in the custody of the state treasurer. All receipts from the taxes imposed under RCW 82.14.0494 and distributions under RCW 67.70.240(5) shall be deposited into the account. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. An appropriation is not required for expenditures from this account.

(2) Until bonds are issued under RCW 43.99N.020, up to five million dollars per year beginning January 1, 1999, shall be used for the purposes of subsection (3)(b) of this section, all remaining moneys in the account shall be transferred to the public stadium authority, created under RCW 36.102.020, to be used for public stadium authority operations and development of the stadium and exhibition center.

(3) After bonds are issued under RCW 43.99N.020, all moneys in the stadium and exhibition center account shall be used exclusively for the following purposes in the following priority:

(a) On or before June 30th of each year, the office of financial management shall accumulate in the stadium and exhibition center account an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued under RCW 43.99N.020;

(b) An additional reserve amount not in excess of the expected average annual principal and interest requirements of bonds issued under RCW 43.99N.020 shall be accumulated and maintained in the account, subject to withdrawal by the state treasurer at any time if necessary to meet the requirements of (a) of this subsection, and, following any withdrawal, reaccumulated from the first tax revenues and other amounts deposited in the account after meeting the requirements of (a) of this subsection; and

(c) The balance, if any, shall be transferred to the youth athletic facility account under subsection (4) of this section.

Any revenues derived from the taxes authorized by RCW 36.38.010(5) and 36.38.040 or other amounts that if used as provided under (a) and (b) of this subsection would cause the loss of any tax exemption under federal law for interest on bonds issued under RCW 43.99N.020 shall be deposited in and used exclusively for the purposes of the youth athletic facility account and shall not be used, directly or indirectly, as a source of payment of principal of or interest on bonds issued under RCW 43.99N.020, or to replace or reimburse other funds used for that purpose.

(4) Any moneys in the stadium and exhibition center account not required or permitted to be used for the purposes described in subsection (3)(a) and (b) of this section shall be deposited in the youth athletic facility account hereby created in the state treasury. Expenditures from the account may be used only for purposes of grants or loans to cities, counties, and qualified nonprofit organizations for community outdoor athletic facilities. For the 2005-2007 biennium, moneys in the account may also be used for a recreation level of service study for local and regional active recreation facilities. Only the director of the recreation and conservation office or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The athletic facility grants or loans may be used for acquiring, developing, equipping, maintaining, and improving community outdoor athletic facilities. Funds shall be divided equally between the development of new community outdoor athletic facilities, the improvement of existing community outdoor athletic facilities, and the maintenance of existing community outdoor athletic facilities. Cities, counties, and qualified nonprofit organizations must submit proposals for grants or loans from the account. To the extent that funds are available, cities, counties, and qualified nonprofit organizations must meet eligibility criteria as established by the director of the recreation and conservation office. The grants and loans shall be awarded on a competitive application process and the amount of the grant or loan shall be in proportion to the population of the city or county for where the community outdoor athletic facility is located. Grants or loans awarded in any one year need not be distributed in that year. In the 2007–2009 biennium, if there are not enough project applications submitted in a category within the account to meet the requirement of equal distribution of funds to each category, the director of the

recreation and conservation office may distribute any remaining funds to other categories within the account. The director of the recreation and conservation office may expend up to one and one-half percent of the moneys deposited in the account created in this subsection for administrative purposes.

NEW SECTION. **Sec. 6018.** Section 6002 of this act expires June 30, 2011.

NEW SECTION. **Sec. 6019.** 2007 c 520 s 6006 (uncodified) is repealed.

NEW SECTION. **Sec. 6020.** Part headings in this act are not any part of the law.

NEW SECTION. **Sec. 6021.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 6022.** 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.

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Passed by the House March 13, 2008.
Passed by the Senate March 13, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 1019, line 22; 1027; 1030; 1032; 1037; 3028 (5); and 3040, Engrossed Substitute House Bill 2765 entitled:

"AN ACT Relating to the capital budget."

Section 1019, page 27, line 22, Department of Community, Trade and Economic Development, Burley Mountain Lodge
This item is one of two appropriations for the same project. Because the Burley Mountain Lodge and the Cispus Environmental Learning Center are the same, I am vetoing the one referred to as Burley Mountain Lodge.

Section 1027, pages 36-37, Department of General Administration, Statewide Infrastructure: Preservation Minor Works
Infrastructure preservation is important for maintaining state facilities in good working order. This section reduces funding for these activities by $100,000. This veto restores funding levels to the original amount in the underlying budget so that drainage, lighting, and benches can be repaired at Heritage Park.

Section 1030, page 38, Department of General Administration, Minor Works — Infrastructure Preservation
This item reduces funding for infrastructure preservation by $204,000. I am vetoing this section to restore funding so that Capitol Campus water and sewer projects and Cascades Gateway Center Campus sewer, water, and storm water projects can proceed.

Section 1032, page 39, Department of General Administration, Minor Works — Program
This item reduces funding for infrastructure preservation by $110,000. I am vetoing this section so that Centennial Park sidewalks and the Interpretive Center restroom roof and interior tiles can be replaced.

Section 1037, page 42, Department of Personnel, Thurston County Childcare Needs Assessment — Predesign
This item directs the Department of Personnel and Department of General Administration to do a predesign to determine childcare needs of state employees in Thurston County; existing licensed childcare capacity; preferred and alternate locations based on that need and capacity; optimum size of childcare space; and project costs for these locations. This work is to be completed by September 15, 2008. I am vetoing this section because this comprehensive analysis cannot be completed within this time frame with the resources provided.

Section 3028(5), page 68, Recreation and Conservation Funding Board, High Speed Watercraft Report
This proviso directs the Recreation and Conservation Funding Board to research hazards to the public from personal highspeed watercraft, such as jet skis, and to prepare a report with recommendations for increasing public enjoyment and safety when personal high-speed watercraft and other forms of motorized and non-motorized water recreation take place together. However, because funding for this research was not provided, I am vetoing this requirement.

Section 3040, pages 75-76, Department of Natural Resources, Recreation Capital Renovations
This proviso would — with a number of exceptions — prohibit the Department of Natural Resources from constructing or expanding facilities or trails for off-road recreation vehicles on state land until after June 30, 2009. I am vetoing this proviso because the Department of Natural Resources' planning process includes public input and considers all users and uses for recreation on state-managed lands. In keeping with Substitute House Bill 2472 that I signed, the Department of Natural Resources will also convene a workgroup to improve recreation on state-managed lands and promote safe, sustainable recreation. I will appoint a representative from my office to participate in this

collaborative effort and am confident the group will examine funding mechanisms, liability, and site-specific planning issues.

For these reasons, I have vetoed Sections 1019, line 22; 1027; 1030; 1032; 1037; 3028 (5); and 3040 of Engrossed Substitute House Bill 2765.

With the exception of Sections 1019, line 22; 1027; 1030; 1032; 1037; 3028 (5); and 3040, Engrossed Substitute House Bill 2765 is approved."

CHAPTER 329

[Engrossed Substitute House Bill 2687]

OPERATING BUDGET—SUPPLEMENTAL APPROPRIATIONS

AN ACT Relating to fiscal matters; amending RCW 28B.105.110, 38.52.106, 41.45.230, 41.50.110, 43.08.190, 43.08.250, 43.330.250, 50.16.010, 67.40.025, 67.40.040, 70.96A.350, 70.105D.070, 70.105D.070, 74.08A.340, 77.32.010, 83.100.230, 90.48.390, 90.71.310, and 90.71.370; reenacting and amending RCW 70.105D.070; amending 2007 c 522 ss 101, 102, 103, 104, 105, 106, 107, 109, 110, 111, 112, 113, 114, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 146, 147, 148, 149, 150, 151, 152, 153, 154, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 401, 402, 501, 502, 503, 504, 505, 507, 508, 509, 510, 511, 513, 514, 515, 516, 517, 519, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 701, 702, 703, 704, 705, 706, 716, 718, 719, 722, 1621, 728, 801, 805, 910, 911, 912, and 913 (uncodified); adding new sections to 2007 c 522 (uncodified); repealing 2007 c 522 s 713 (uncodified); making appropriations; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

PART I
GENERAL GOVERNMENT

Sec. 101. 2007 c 522 s 101 (uncodified) is amended to read as follows:

FOR THE HOUSE OF REPRESENTATIVES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$34,522,000~~)) $34,807,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$35,598,000~~)) $36,010,000

Pension Funding Stabilization Account Appropriation. $560,000

TOTAL APPROPRIATION . . . . . ((~~$70,680,000~~)) $71,377,000

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

(1) $56,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to implement Senate Bill No. 5926 (construction industry). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(2) $52,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Third Substitute House Bill No. 1741 (oral history). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(3) $194,000 of the general fund—state appropriation for fiscal year 2008 and $194,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the legislature to contract for an independent economic and actuarial analysis of health care reform proposals pursuant to Engrossed Substitute Senate Bill No. 6333. The results of this evaluation will be submitted to the governor, the health and fiscal policy committees of the legislature, and the work group by December 15, 2008.

Sec. 102. 2007 c 522 s 102 (uncodified) is amended to read as follows:

FOR THE SENATE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$26,483,000~~))
$26,990,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$29,196,000~~))
$29,434,000
Pension Funding Stabilization Account
Appropriation. $467,000
TOTAL APPROPRIATION . . . . . ((~~$56,146,000~~))
$56,891,000

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

(1) $56,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to implement Senate Bill No. 5926 (construction industry). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(2) $52,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Third Substitute House Bill No. 1741 (oral history). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(3) $194,000 of the general fund—state appropriation for fiscal year 2008 and $194,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the legislature to contract for an independent economic and actuarial analysis of health care reform proposals pursuant to Engrossed Substitute Senate Bill No. 6333. The results of this evaluation will be submitted to the governor, the health and fiscal policy committees of the legislature, and the work group by December 15, 2008.

***Sec. 103.** 2007 c 522 s 103 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$3,377,000~~))
$3,378,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$3,155,000~~))
$3,355,000
Pension Funding Stabilization Account
Appropriation. $36,000
TOTAL APPROPRIATION . . . . . ((~~$6,568,000~~))
$6,769,000

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

(1) Notwithstanding the provisions in this section, the committee may adjust the due dates for projects included on the committee's 2007-09 work plan as necessary to efficiently manage workload.

(2) $100,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the joint legislative audit and review committee to conduct a review of the method used to determine lease rates for state-owned aquatic lands. The review shall include classification of current lease base and lease rates by category of use such as marinas; a review of previous studies of formulas for state-owned aquatic land leases; and identification of pros and cons of alternative approaches to calculating aquatic lands lease rates. The committee shall complete the review by June 2008.

(3) $100,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the joint legislative audit and review committee to conduct an evaluation and comparison of the cost efficiency of rental housing voucher programs versus other housing projects intended to assist low-income households, including construction and rehabilitation of housing units. The study will consider factors including administrative costs, capital costs, and other operating costs involved in operating voucher and other housing programs. The study will compare the number of households that can be served by voucher and other housing programs, given a set amount of available funds. The department of community, trade, and economic development, the housing finance commission, housing authorities, community action agencies, and local governments shall provide the joint legislative audit and review committee with information necessary for the study. The joint legislative audit and review committee shall solicit input regarding the study from interested parties, including representatives from the affordable housing advisory board, the department of community, trade, and economic development, the housing finance commission, representatives from the private rental housing industry, housing authorities, community action agencies, county and city governments, and nonprofit and for-profit housing developers. The joint legislative audit and review committee shall present the results of the study to the legislature by December 31, 2008.

(4) $100,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for a cost analysis of the programs and activities administered by the department of fish and wildlife. In conducting the study, the committee shall specifically identify the total costs that support both hunting and fishing programs as well as nongame programs, including appropriate shares of the agency's administrative and indirect costs. The committee shall compare the cost analysis to revenues that currently support the programs, including the level of support received from game licenses and fees. The committee shall base its analysis on available management information and shall provide the results of its analysis to the legislature by January 2008.

(5) $164,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the joint legislative audit and review committee to analyze gaps throughout the state in the availability and accessibility of services identified in the federal adoption and safe families act as directed by Substitute House Bill No. 1333 (child welfare). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(6) Within the amounts appropriated in this section, the joint legislative audit and review committee shall conduct an analysis of the qualifications required to become a social worker I, II, III, or IV within the department of social and health services children's administration. The committee shall conduct an analysis of the qualifications used by other states for equivalent categories of social workers. The committee shall analyze the strengths and weaknesses of Washington's qualifications relative to the other states. The findings shall be reported to the legislature by December 1, 2007.

(7) Within amounts provided in this section, the committee shall conduct a review of the eligibility requirements and eligibility review processes that apply to any state program that offers individual health care coverage for qualified recipients.

(8) $75,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(9) $75,000 of the general fund—state appropriation for fiscal year 2008 and $25,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Second Substitute House Bill No. 1488 (oil spill program). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(10) Within the amounts provided in this section, the committee shall review the constitutional, case law, and statutory objectives and obligations of the department of natural resources' management of state-owned aquatic lands. The review will include an assessment of the degree to which the management practices of the department and other agencies are meeting these objectives and complying with legal obligations.

(11) $38,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed House Bill No. 2641 (education performance agreements). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(12) Within the amounts appropriated in this section, the joint legislative audit and review committee shall conduct a preaudit for a comprehensive review of boards and commissions. The preaudit study will inventory the existing boards/commissions, identify criteria for selecting entities for further review, propose the scope and objectives of those reviews, and identify resource and schedule options for the committee to consider before proceeding.

(13) The joint legislative audit and review committee shall develop a framework for future efforts to quantify and analyze health care spending across all sectors of the state. This effort would focus on identifying the relevant types of spending in the public and private sectors, the availability of information on each of those types of spending, and the extent to which that available information could be tracked over time. In conducting this work, the committee shall work with the legislative evaluation and accountability program committee and the University of Washington's institute for health metrics and evaluation, as appropriate. The committee shall provide a report by January 2009.

(14) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for beginning a cost-benefit analysis of a state-supported recreational facility. The objective of this analysis will be to

compare the total capital and operating costs for the facility to the total benefits that have accrued over time and identify which parties have borne the costs and which parties have received the benefits.

***Sec. 103 was partially vetoed. See message at end of chapter.**

Sec. 104. 2007 c 522 s 104 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

General Fund—State Appropriation (FY 2008) $1,843,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,068,000~~))
$2,038,000
Pension Funding Stabilization Account
Appropriation. $41,000
TOTAL APPROPRIATION . . . . . ((~~$3,952,000~~))
$3,922,000

Sec. 105. 2007 c 522 s 105 (uncodified) is amended to read as follows:

FOR THE OFFICE OF THE STATE ACTUARY

General Fund—State Appropriation (FY 2009) $25,000
Department of Retirement Systems Expense Account—
State Appropriation . . . . . ((~~$3,517,000~~))
$3,491,000
TOTAL APPROPRIATION. $3,516,000

The appropriations in this section are subject to the following conditions and limitations: $25,000 of the general fund—state appropriation for 2009 is provided solely for the purchase of actuarial services to assist in the evaluation of the fiscal impact of health benefit proposals.

Sec. 106. 2007 c 522 s 106 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$9,023,000~~))
$9,057,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$9,198,000~~))
$9,151,000
Pension Funding Stabilization Account
Appropriation. $92,000
TOTAL APPROPRIATION . . . . . ((~~$18,313,000~~))
$18,300,000

Sec. 107. 2007 c 522 s 107 (uncodified) is amended to read as follows:

FOR THE STATUTE LAW COMMITTEE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$4,810,000~~))
$4,811,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$5,301,000~~))
$5,220,000
Pension Funding Stabilization Account
Appropriation. $75,000
TOTAL APPROPRIATION . . . . . ((~~$10,186,000~~))
$10,106,000

Sec. 108. 2007 c 522 s 109 (uncodified) is amended to read as follows:

FOR THE SUPREME COURT

General Fund—State Appropriation (FY 2008) . . . . . ((~~$7,255,000~~))
$7,392,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$7,510,000~~))
$7,598,000

TOTAL APPROPRIATION . . . . . ((~~$14,765,000~~))
$14,990,000

The appropriations in this section are subject to the following conditions and limitations: $150,000 of the general fund—state appropriation for fiscal year 2008 and $55,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement the task force on domestic violence as requested by section 306 of Second Substitute Senate Bill No. 5470 (dissolution proceedings). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

Sec. 109. 2007 c 522 s 110 (uncodified) is amended to read as follows:

FOR THE LAW LIBRARY

General Fund—State Appropriation (FY 2008) . . . . . ((~~$2,231,000~~))
$2,268,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,259,000~~))
$2,269,000

TOTAL APPROPRIATION . . . . . ((~~$4,490,000~~))
$4,537,000

Sec. 110. 2007 c 522 s 111 (uncodified) is amended to read as follows:

FOR THE COURT OF APPEALS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$15,779,000~~))
$16,092,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$16,819,000~~))
$17,145,000

TOTAL APPROPRIATION . . . . . ((~~$32,598,000~~))
$33,237,000

The appropriations in this section are subject to the following conditions and limitations: $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for chapter 34, Laws of 2007 (Senate Bill No. 5351, court of appeals judges' travel).

Sec. 111. 2007 c 522 s 112 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON JUDICIAL CONDUCT

General Fund—State Appropriation (FY 2008) $1,117,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,148,000~~))
$1,134,000

TOTAL APPROPRIATION . . . . . ((~~$2,265,000~~))
$2,251,000

Sec. 112. 2007 c 522 s 113 (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$29,011,000~~)) $30,659,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$30,148,000~~)) $33,447,000

Public Safety and Education Account—State Appropriation (FY 2008) . . . . . ((~~$24,071,000~~)) $22,558,000

Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$24,223,000~~)) $24,199,000

Equal Justice Subaccount of the Public Safety and Education Account—State Appropriation (FY 2008) $3,175,000

Equal Justice Subaccount of the Public Safety and Education Account—State Appropriation (FY 2009) $3,175,000

Judicial Information Systems Account—State Appropriation . . . . . ((~~$39,437,000~~)) $40,923,000

TOTAL APPROPRIATION . . . . . ((~~$153,240,000~~)) $158,136,000

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

(1) $3,900,000 of the general fund—state appropriation for fiscal year 2008 and $3,900,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for court-appointed special advocates in dependency matters. The administrator for the courts, after consulting with the association of juvenile court administrators and the association of court-appointed special advocate/guardian ad litem programs, shall distribute the funds to volunteer court-appointed special advocate/guardian ad litem programs. The distribution of funding shall be based on the number of children who need volunteer court-appointed special advocate representation and shall be equally accessible to all volunteer court-appointed special advocate/guardian ad litem programs. The administrator for the courts shall not retain more than six percent of total funding to cover administrative or any other agency costs. Funding distributed in this subsection shall not be used to supplant existing local funding for the court-appointed special advocates program.

(2) $300,000 of the general fund—state appropriation for fiscal year 2008, $300,000 of the general fund—state appropriation for fiscal year 2009, $1,500,000 of the public safety and education account—state appropriation for fiscal year 2008, and $1,500,000 of the public safety and education account—state appropriation for fiscal year 2009 are provided solely for school districts for petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed. This funding includes amounts school districts may expend on the cost of serving

petitions filed under RCW 28A.225.030 by certified mail or by personal service or for the performance of service of process for any hearing associated with RCW 28A.225.030.

(3)(a) $1,640,000 of the general fund—state appropriation for fiscal year 2008, $1,641,000 of the general fund—state appropriation for fiscal year 2009, $6,612,000 of the public safety and education account—state appropriation for fiscal year 2008, and $6,612,000 of the public safety and education account—state appropriation for fiscal year 2009 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(b) Each fiscal year during the 2007-09 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the administrator for the courts no later than 45 days after the end of the fiscal year. The administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(4) The distributions made under this subsection and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(5) $325,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the completion of the juror pay pilot and research project.

(6) ((~~$1,000,000~~)) $830,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$1,000,000~~)) $1,170,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for improving interpreter services at the trial court level.

(a) Of these amounts, ((~~$340,000~~)) $170,000 for fiscal year 2008 ((~~is~~)) and $170,000 for fiscal year 2009 are provided solely to assist trial courts in developing and implementing language assistance plans. The administrator of the courts, in consultation with the interpreter commission, shall adopt language assistance plan standards consistent with chapters 2.42 and 2.43 RCW. The standards shall include guidelines on local community input, provisions on notifying court users on the right and methods to obtain an interpreter, information on training for judges and court personnel, procedures for identifying and appointing an interpreter, access to translations of commonly used forms, and processes to evaluate the development and implementation of the plan.

(b) Of these amounts, $610,000 for fiscal year 2008 and $950,000 for fiscal year 2009 are provided solely to assist trial courts with interpreter services. In order to be eligible for assistance, a trial court must have completed a language assistance plan consistent with the standards established in (a) of this subsection that is approved by the administrator of the courts and submit the amounts spent

annually on interpreter services for fiscal years 2005, 2006, and 2007. The funding in this subsection (b) shall not be used to supplant existing funding and cannot be used for any purpose other than assisting trial courts with interpreter services. At the end of the fiscal year, recipients shall report to the administrator of the court the amount the trial court spent on interpreter services.

(c) $50,000 for fiscal year 2008 and $50,000 for fiscal year 2009 are provided solely to the administrator of the courts for administration of this subsection. By December 1, 2009, the administrator of the courts shall report to the appropriate policy and fiscal committees of the legislature: (i) The number of trial courts in the state that have completed a language assistance plan; (ii) the number of trial courts in the state that have not completed a language assistance plan; (iii) the number of trial courts in the state that received assistance under this subsection, the amount of the assistance, and the amount each trial court spent on interpreter services for fiscal years 2005 through 2008 and fiscal year 2009 to date.

(7) $443,000 of the general fund—state appropriation for fiscal year 2008 and $543,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Second Substitute Senate Bill No. 5470 (dissolution proceedings). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse. Within the amounts provided:

(a) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for developing training materials for the family court liaisons.

(b) $43,000 of the general fund—state appropriation for fiscal year 2008 and $43,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for reimbursement costs related to the family law handbook;

(c) $350,000 of the general fund—state appropriation for fiscal year 2008 and $350,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for distribution to counties to provide guardian ad litem services for the indigent for a reduced or waived fee;

(d) $50,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementing the data tracking provisions specified in sections 701 and 702 of Second Substitute Senate Bill No. 5470 (dissolution).

(8)(a) $20,458,000 of the judicial information systems account—state appropriation is provided solely for the development and implementation of the core case management system. In expending the funds provided within this subsection, the following conditions must first be satisfied before any subsequent funds may be expended:

(i) Completion of feasibility studies detailing linkages between the objectives of the core case management system and the following: The technology efforts required and the impacts of the new investments on existing infrastructure and business functions, including the estimated fiscal impacts to the judicial information systems account and the near general fund accounts; the alignment of critical system requirements of varying size courts at the municipal, district, and superior court level with their respective proposed business processes resulting from business process engineering, and detail on the costs and other impacts to the courts for providing critical business requirements not addressed by new common business processes; the specific requirements and business process needs of state agencies dependent on data exchange with the

judicial information system; and the results from a proof of implementation phase; and

(ii) Discussion with and presentation to the department of information systems and the information services board regarding the impact on the state agencies dependent on successful data exchange with the judicial information system and the results of the feasibility studies.

(b) The judicial information systems committee shall provide quarterly updates to the appropriate committees of the legislature and the department of information systems on the status of implementation of the core case management system.

(c) The legislature respectfully requests the judicial information systems committee invite representatives from the state agencies dependent on successful data exchange to their regular meetings for consultation as nonvoting members.

(((~~(10)~~))) (9) $534,000 of the general fund—state appropriation for fiscal year 2008 and $949,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for Substitute Senate Bill No. 5320 (public guardianship office). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(10) $29,000 of the general fund—state appropriation for fiscal year 2008 and $102,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the twenty-third superior court judge position in Pierce county. The funds appropriated in this subsection shall be expended only if the judge is appointed and serving on the bench.

(11) $800,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement Second Substitute House Bill No. 2822 (family and juvenile court). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(12) $90,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement Second Substitute House Bill No. 2903 (access coordinator). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 113.** 2007 c 522 s 114 (uncodified) is amended to read as follows:

FOR THE OFFICE OF PUBLIC DEFENSE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$18,014,000~~)) $17,814,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$18,016,000~~)) $18,137,000

Public Safety and Education Account—State Appropriation (FY 2008) $7,066,000

Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$7,025,000~~)) $7,013,000

Equal Justice Subaccount of the Public Safety and Education Account—State Appropriation (FY 2008) $2,250,000

Equal Justice Subaccount of the Public Safety and Education Account—State Appropriation (FY 2009) $2,251,000

TOTAL APPROPRIATION . . . . . ((~~$54,622,000~~)) $54,531,000

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

(1) The amounts provided from the public safety and education account appropriations include funding for expert and investigative services in death penalty personal restraint petitions.

(2) $398,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to expand the parents representation program into Whatcom county.

(3) Starting with fiscal year 2009, the office shall adjust its monthly, annual, and biennial accounting records so that the expenditures by fund, object, and subobject are attributed to the following programs: (a) Appellate indigent defense; (b) representation of indigent parents qualified for appointed counsel in dependency and termination cases; (c) trial court criminal indigent defense; (d) other grants or contracted services; and (e) costs for administering the office. The office may consult with the administrator for the courts, the office of financial management, and the legislative evaluation and accountability program committee for guidance in adjusting its accounting records.

(4) $235,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement sections 2 and 3 of Engrossed Second Substitute House Bill No. 3205 (child long-term well-being). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 113 was partially vetoed. See message at end of chapter.**

***Sec. 114.** 2007 c 522 s 116 (uncodified) is amended to read as follows:

FOR THE OFFICE OF THE GOVERNOR

General Fund—State Appropriation (FY 2008) . . . . . ((~~$6,614,000~~))
$6,615,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$6,758,000~~))
$6,959,000

((~~General Fund—Federal Appropriation . . . . . $35,000~~))

Economic Development Strategic Reserve Account—State Appropriation. . . . . ((~~$4,000,000~~))
$6,000,000

Oil Spill Prevention Account—State Appropriation $715,000

TOTAL APPROPRIATION . . . . . ((~~$18,122,000~~))
$20,289,000

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

(1) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute Senate Bill No. 5224 (salmon office). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(2) $25,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Senate Bill No. 6313 (disability history). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(3) $2,000,000 of the economic development and strategic reserve account—state appropriation for fiscal year 2009 is provided solely to provide

support and assistance to victims of the December 2007 storms and floods in Chehalis and Centralia.

***Sec. 114 was partially vetoed. See message at end of chapter.**

Sec. 115. 2007 c 522 s 117 (uncodified) is amended to read as follows:

FOR THE LIEUTENANT GOVERNOR

General Fund—State Appropriation (FY 2008) $798,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$837,000~~))
$821,000
General Fund—Private/Local Appropriation $90,000
TOTAL APPROPRIATION . . . . . ((~~$1,725,000~~))
$1,709,000

Sec. 116. 2007 c 522 s 118 (uncodified) is amended to read as follows:

FOR THE PUBLIC DISCLOSURE COMMISSION

General Fund—State Appropriation (FY 2008) $2,546,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,499,000~~))
$2,448,000
TOTAL APPROPRIATION . . . . . ((~~$5,045,000~~))
$4,994,000

The appropriations in this section are subject to the following conditions and limitations: $100,000 of the general fund—state appropriation for fiscal year 2008 is for a feasibility study to determine the cost of designing, developing, implementing, and maintaining: (a) Software or other applications to accommodate electronic filing by lobbyists reporting under RCW 42.17.150 and 42.17.170, by lobbyist employers reporting under RCW 42.17.180, and by public agencies reporting under RCW 42.17.190; (b) a database and query system that results in data that is readily available to the public for review and analysis and that is compatible with current computer architecture, technology, and operating systems, including but not limited to Windows and Apple operating systems. The commission shall contract for the feasibility study and consult with the department of information services. The study may include other elements, as determined by the commission, that promote public access to information about lobbying activity reportable under chapter 42.17 RCW. The study shall be provided to the legislature by January 2008.

Sec. 117. 2007 c 522 s 119 (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$32,941,000~~))
$33,863,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$21,774,000~~))
$21,816,000
General Fund—Federal Appropriation . . . . . ((~~$7,312,000~~))
$7,279,000
General Fund—Private/Local Appropriation . . . . . ((~~$134,000~~))
$132,000
Archives and Records Management Account—State
Appropriation. . . . . ((~~$8,390,000~~))
$8,339,000

Department of Personnel Service Account—State
Appropriation. . . . . ((~~$768,000~~))
$760,000
Local Government Archives Account—State
Appropriation. . . . . ((~~$13,791,000~~))
$15,344,000
Election Account—Federal Appropriation. . . . . ((~~$39,103,000~~))
$31,511,000
Charitable Organization Education Account—State
Appropriation. $122,000
TOTAL APPROPRIATION . . . . . ((~~$124,335,000~~))
$119,166,000

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

(1) ((~~$13,104,000~~)) $13,290,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2) ((~~$2,421,000~~)) $2,556,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$3,893,000~~)) $3,965,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, and the publication and distribution of the voters and candidates pamphlet.

(3) $125,000 of the general fund—state appropriation for fiscal year 2008 and $118,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for legal advertising of state measures under RCW 29A.52.330.

(4)(a) $2,465,000 of the general fund—state appropriation for fiscal year 2008 and $2,501,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2007-09 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a contract with the nonprofit organization to provide public affairs coverage.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(5) $45,000 of the general fund—state appropriation for fiscal year 2008 and $45,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for humanities Washington's "we the people" community conversations program.

(6) $122,000 of the charitable organization education account—state appropriation is provided solely for implementation of Substitute House Bill No. 1777 (charitable organizations). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(7) $575,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for settlement costs and attorney fees resulting from the resolution of *Washington Association of Churches, et al. v. Reed,* United States District Court Western District of Washington at Seattle, Case No. CV06-0726RSM.

Sec. 118. 2007 c 522 s 120 (uncodified) is amended to read as follows:

FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS

General Fund—State Appropriation (FY 2008) $348,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$317,000~~))
$463,000
TOTAL APPROPRIATION . . . . . ((~~$665,000~~))
$811,000

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

(1) The office shall assist the department of personnel on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department of personnel shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

(2) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the office to engage a contractor to conduct a detailed analysis of the achievement gap for Native American students; analyze the progress in developing effective government-to-government relations and identification and adoption of curriculum regarding tribal history, culture, and government as provided under RCW 28A.345.070; recommend a comprehensive plan for closing the achievement gap pursuant to goals under the federal no child left behind act for all groups of students to meet academic

standards by 2014; and identify performance measures to monitor adequate yearly progress. The contractor shall conduct the analysis starting with the call to action paper by the multi-ethnic think tank and as guided by the tribal leader congress on education, the Washington state school directors association, and other appropriate groups. The contractor shall submit a study update by September 15, 2008, and submit a final report by December 30, 2008, to the governor, the superintendent of public instruction, the state board of education, the P-20 council, the basic education finance task force, and the education committees of the legislature.

Sec. 119. 2007 c 522 s 121 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS

General Fund—State Appropriation (FY 2008) $257,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$252,000~~))
$548,000
TOTAL APPROPRIATION . . . . . ((~~$509,000~~))
$805,000

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

(1) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the commission to engage a contractor to conduct a detailed analysis of the achievement gap for Asian American students; recommend a comprehensive plan for closing the achievement gap pursuant to goals under the federal no child left behind act for all groups of students to meet academic standards by 2014; and identify performance measures to monitor adequate yearly progress. The contractor shall conduct the analysis starting with the call to action paper by the multi-ethnic think tank and as guided by the former members of the Asian Pacific Islander American think tank and other appropriate groups. The contractor shall submit a study update by September 15, 2008, and submit a final report by December 30, 2008, to the governor, the superintendent of public instruction, the state board of education, the P-20 council, the basic education finance task force, and the education committees of the legislature.

(2) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the commission to engage a contractor to conduct a detailed analysis of the achievement gap for Pacific Islander American students; recommend a comprehensive plan for closing the achievement gap pursuant to goals under the federal no child left behind act for all groups of students to meet academic standards by 2014; and identify performance measures to monitor adequate yearly progress. The contractor shall conduct the analysis starting with the call to action paper by the multi-ethnic think tank and as guided by the former members of the Asian Pacific Islander American think tank and other appropriate groups. The contractor shall submit a study update by September 15, 2008, and submit a final report by December 30, 2008, to the governor, the superintendent of public instruction, the state board of education, the P-20 council, the basic education finance task force, and the education committees of the legislature.

Sec. 120. 2007 c 522 s 122 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER

State Treasurer's Service Account—State
Appropriation. . . . . ((~~$15,687,000~~))
$15,539,000

The appropriation in this section is subject to the following conditions and limitations: $183,000 of the state treasurer's service account—state appropriation is provided solely for implementation of Engrossed Substitute House Bill No. 1512 (linked deposit program). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

Sec. 121. 2007 c 522 s 123 (uncodified) is amended to read as follows:

FOR THE STATE AUDITOR
General Fund—State Appropriation (FY 2008) $794,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$829,000~~))
$806,000
State Auditing Services Revolving Account—State
Appropriation. . . . . ((~~$15,188,000~~))
$15,312,000
TOTAL APPROPRIATION . . . . . ((~~$16,811,000~~))
$16,912,000

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

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) $752,000 of the general fund—state appropriation for fiscal year 2008 and $762,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) $1,000 of the appropriation from the auditing services revolving account—state is provided solely for an adjustment to the agency lease rate for space occupied and parking in the Tacoma Rhodes Center. The department of general administration shall increase lease rates to meet the cash gain/loss break-even point for the Tacoma Rhodes Center effective July 1, 2007.

(4) $313,000 of the auditing services revolving account—state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 6776 (whistleblower protections). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

Sec. 122. 2007 c 522 s 124 (uncodified) is amended to read as follows:

FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS
General Fund—State Appropriation (FY 2008) $159,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$229,000~~))
$225,000
TOTAL APPROPRIATION . . . . . ((~~$388,000~~))
$384,000

***Sec. 123.** 2007 c 522 s 125 (uncodified) is amended to read as follows:

FOR THE ATTORNEY GENERAL
General Fund—State Appropriation (FY 2008) . . . . . ((~~$6,250,000~~))
$6,262,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$6,656,000~~))
$6,973,000
General Fund—Federal Appropriation . . . . . ((~~$3,951,000~~))
$3,960,000
Public Safety and Education Account—State
Appropriation (FY 2008) $1,143,000
Public Safety and Education Account—State
Appropriation (FY 2009) . . . . . ((~~$1,199,000~~))
$1,228,000
New Motor Vehicle Arbitration Account—State
Appropriation . . . . . ((~~$1,323,000~~))
$1,312,000
Legal Services Revolving Account—State
Appropriation . . . . . ((~~$224,635,000~~))
$229,849,000
Tobacco Prevention and Control Account—State
Appropriation $270,000
TOTAL APPROPRIATION . . . . . ((~~$245,427,000~~))
$250,997,000

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

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on appropriations.

(3) $9,446,000 of the legal services revolving account—state appropriation is provided solely for increases in salaries and benefits of assistant attorneys general effective July 1, 2007. This funding is provided solely for increases to address critical recruitment and retention problems, and shall not be used for the performance management program or to fund general administration. The attorney general shall report to the office of financial management and the fiscal committees of the senate and house of representatives by October 1, 2008, and provide detailed demographic information regarding assistant attorneys general who received increased salaries and benefits as a result of the appropriation. The report shall include at a minimum information regarding the years of service,

division assignment within the attorney general's office, and client agencies represented by assistant attorneys general receiving increased salaries and benefits as a result of the amount provided in this subsection. The report shall include a proposed salary schedule for all assistant attorneys general using the same factors used to determine increased salaries under this section. The report shall also provide initial findings regarding the effect of the increases on recruitment and retention of assistant attorneys general.

(4) $69,000 of the legal services revolving fund—state appropriation is provided solely for Engrossed Substitute Senate Bill No. 6001 (climate change). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(5) $44,000 of the legal services revolving fund—state appropriation is provided solely for Substitute Senate Bill No. 5972 (surface mining reclamation). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(6) $170,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute House Bill No. 2479 (wireless number disclosure). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(7) $110,000 of the legal services revolving account—state appropriation is provided solely for implementation of Second Substitute House Bill No. 3274 (port district contracting). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(8) $346,000 of the legal services revolving account—state appropriation is provided solely for implementation of sections 2 and 3 of Engrossed Second Substitute House Bill No. 3205 (child long-term well-being). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(9) $492,000 of the legal services revolving account—state appropriation is provided solely for implementation of Second Substitute Senate Bill No. 6732 (construction industry). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(10) The agency shall submit a staffing model that supports the need for increased resources due to casework associated with the sexually violent predator population to the office of financial management and the fiscal committees of the legislature by October 31, 2008.

(11) The attorney general shall deposit to the health services account at least $680,000 from the *cy pres* monetary portion of the consent decree in settlement of the consumer protection act litigation against Caremark Rx, LLC (King county superior court cause no. 08-2-06098-5). These moneys shall be expended pursuant to legislative appropriation consistent with the terms of the consent decree.

(12) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the attorney general to review the implementation of Substitute Senate Bill No. 6385 (real property). At a minimum, the attorney general shall collect data related to the number of actions filed and their disposition. The office shall report its findings and any recommendations for statutory changes to the appropriate committees of the legislature by December 1, 2008. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 123 was partially vetoed. See message at end of chapter.**

Sec. 124. 2007 c 522 s 126 (uncodified) is amended to read as follows:

FOR THE CASELOAD FORECAST COUNCIL

General Fund—State Appropriation (FY 2008) . . . . . ((~~$756,000~~)) $815,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$781,000~~)) $793,000

TOTAL APPROPRIATION . . . . . ((~~$1,537,000~~)) $1,608,000

***Sec. 125.** 2007 c 522 s 127 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

General Fund—State Appropriation (FY 2008) . . . . . ((~~$66,652,000~~)) $63,420,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$67,867,000~~)) $73,998,000

General Fund—Federal Appropriation . . . . . ((~~$251,537,000~~)) $252,994,000

General Fund—Private/Local Appropriation . . . . . ((~~$14,680,000~~)) $14,657,000

Public Safety and Education Account—State Appropriation (FY 2008) $2,775,000

Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$2,735,000~~)) $3,750,000

Public Works Assistance Account—State Appropriation . . . . . ((~~$2,977,000~~)) $2,956,000

Tourism Promotion and Development Account—State Appropriation $1,000,000

Drinking Water Assistance Administrative Account—State Appropriation . . . . . ((~~$415,000~~)) $405,000

Lead Paint Account—State Appropriation . . . . . ((~~$6,000~~)) $18,000

Building Code Council Account—State Appropriation . . . . . ((~~$1,180,000~~)) $1,211,000

Low-Income Weatherization Assistance Account—State Appropriation . . . . . ((~~$8,385,000~~)) $8,381,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2008) $3,644,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2009) . . . . . ((~~$3,660,000~~)) $3,650,000

Community and Economic Development Fee Account—State Appropriation . . . . . ((~~$1,840,000~~)) $1,837,000

Washington Housing Trust Account—State Appropriation. . . . . ((~~$32,327,000~~)) $26,777,000
((~~Homeless Families Service Account—State Appropriation. . . . . $300,000~~))
Public Facility Construction Loan Revolving Account—State Appropriation . . . . . ((~~$635,000~~)) $630,000
Affordable Housing Account—State Appropriation . . . . . ((~~$15,200,000~~)) $14,650,000
Community Preservation and Development Authority Account—State Appropriation $350,000
Home Security Fund Account—State Appropriation . . . . . ((~~$16,200,000~~)) $16,700,000
Independent Youth Housing Account—State Appropriation $1,000,000
Administrative Contingency Account—State Appropriation. $1,800,000
Manufacturing Innovation and Modernization Account—State Appropriation $306,000
TOTAL APPROPRIATION . . . . . ((~~$495,365,000~~)) $496,909,000

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

(1) $2,838,000 of the general fund—state appropriation for fiscal year 2008 and $2,838,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a contract with the Washington technology center for work essential to the mission of the Washington technology center and conducted in partnership with universities. The center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1995-97 fiscal biennium.

(2) $1,658,000 of the general fund—state appropriation for fiscal year 2008 and $1,658,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for multijurisdictional drug task forces.

(3) $1,500,000 of the general fund—state appropriation for fiscal year 2008 and $1,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to fund domestic violence legal advocacy.

(4) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall ((~~contract with a lender or contract collection agent to act as a collection agent of the state. The lender or contract collection agent shall collect payments on outstanding loans, and deposit them into an interest-bearing account. The funds collected shall be remitted to the department quarterly. Interest earned in the account may be retained by the lender or contract collection agent, and shall be considered a fee for processing payments on behalf of the state. Repayments of loans granted under this chapter shall be made to the lender or contract collection agent as long as the loan is outstanding, notwithstanding the repeal of the chapter~~)) collect payments on outstanding loans, and deposit them into the state general fund. Repayments of funds owed under the program shall be

remitted to the department according to the terms included in the original loan agreements.

(5) $145,000 of the general fund—state appropriation for fiscal year 2008 and $144,000 of the general fund—state appropriation for fiscal year 2009 are provided to support a task force on human trafficking.

(6) $2,500,000 of the general fund—state appropriation for fiscal year 2008 and $2,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for Second Substitute Senate Bill No. 5092 (associate development organizations). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(7) $1,500,000 of the general fund—state appropriation for fiscal year 2008 and $1,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the community services block grant program.

(8) $70,000 of the general fund—state appropriation for fiscal year 2008 and $65,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the department to implement the innovation partnership zone program.

(a) The director shall designate innovation partnership zones on the basis of the following criteria:

(i) Innovation partnership zones must have three types of institutions operating within their boundaries, or show evidence of planning and local partnerships that will lead to dense concentrations of these institutions:

(A) Research capacity in the form of a university or community college fostering commercially valuable research, nonprofit institutions creating commercially applicable innovations, or a national laboratory;

(B) Dense proximity of globally competitive firms in a research-based industry or industries or of individual firms with innovation strategies linked to (a)(i) of this subsection. A globally competitive firm may be signified through international organization for standardization 9000 or 1400 certification, or other recognized evidence of international success; and

(C) Training capacity either within the zone or readily accessible to the zone. The training capacity requirement may be met by the same institution as the research capacity requirement, to the extent both are associated with an educational institution in the proposed zone;

(ii) The support of a local jurisdiction, a research institution, an educational institution, an industry or cluster association, a workforce development council, and an associate development organization, port, or chamber of commerce;

(iii) Identifiable boundaries for the zone within which the applicant will concentrate efforts to connect innovative researchers, entrepreneurs, investors, industry associations or clusters, and training providers. The geographic area defined should lend itself to a distinct identity and have the capacity to accommodate firm growth;

(iv) The innovation partnership zone shall designate a zone administrator, which must be an economic development council, port, workforce development council, city, or county.

(b) By October 1, 2007, and October 1, 2008, the director shall designate innovation partnership zones on the basis of applications that meet the criteria in this subsection, estimated economic impact of the zone, and evidence of forward planning for the zone.

(c) If the innovation partnership zone meets the other requirements of the fund sources, then the innovation partnership zone is encouraged to use the local infrastructure financing tool program, the sales and use tax for public facilities in rural counties, the job skills program and other state and local resources to promote zone development.

(d) The department shall convene at least one information sharing event for innovation partnership zone administrators and other interested parties.

(e) An innovation partnership zone shall provide performance measures as required by the director, including but not limited to private investment measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation.

(9) $430,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$1,935,000~~)) $2,200,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the economic development commission to work with the higher education coordinating board and research institutions to: (a) Develop a plan for recruitment of ten significant entrepreneurial researchers over the next ten years to lead innovation research teams, which plan shall be implemented by the higher education coordinating board; and (b) develop comprehensive entrepreneurial programs at research institutions to accelerate the commercialization process.

(10) $500,000 of the general fund—state appropriation for fiscal year 2008 and $500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant to the cascade land conservancy to develop and demonstrate one or more transfer of development rights programs. These programs shall involve the purchase or lease of development rights or conservation easements from family forest landowners facing pressure to convert their lands and who desire to keep their land in active forest management. The grant shall require the conservancy to work in collaboration with family forest landowners and affected local governments, and to submit an interim written progress report to the department by September 15, 2008, and a final report by June 30, 2009. The department shall transmit the reports to the governor and the appropriate committees of the legislature.

(11) $155,000 of the general fund—state appropriation for fiscal year 2008 and $150,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for Engrossed Second Substitute House Bill No. 1422 (addressing children and families of incarcerated parents). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(12) $180,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$180,000~~)) $430,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for KCTS public television to support programming in the Spanish language. These funds are intended to support the addition of a bilingual outreach coordinator to serve Latino adults, families and children in western and central Washington; multimedia promotion on Spanish-language media and website integration; the production of targeted public affairs programs that seek to improve education and the quality of life for Latinos; and to establish partnerships with city and county library systems to provide alternative access to the v-me Spanish language channel via the internet.

(13) $1,000,000 of the tourism and promotion account—state appropriation is provided for Substitute House Bill No. 1276 (creating a public/private tourism partnership). Of this amount, $280,000 is for the department of fish and wildlife's nature tourism infrastructure program; $450,000 is for marketing the 2010 Olympic games; and $50,000 is for the Washington state games.

((~~(15)~~)) (14) $50,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the African chamber of commerce of the Pacific Northwest to support the formation of trade alliances between Washington businesses and African businesses and governments.

((~~(16)~~)) (15) $750,000 of the general fund—state appropriation for fiscal year 2008 and $750,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the emergency food assistance program.

((~~(17) $500,000 of the general fund—state appropriation for fiscal year 2008 and $500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the department's individual development account program.~~

~~(18)~~)) (16) $80,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the energy facility site evaluation council to contract for a review of the status of pipeline utility corridor capacity and distribution for natural gas, petroleum and biofuels in southwest Washington. The council shall submit its findings and recommendations to the legislature by December 1, 2007.

((~~(19)~~)) (17) ((~~$1,813,000~~)) $513,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$1,813,000~~)) $2,463,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a pilot program to provide transitional housing assistance to offenders who are reentering the community and are in need of housing as generally described in Engrossed Substitute Senate Bill No. 6157 (offender recidivism). The department shall operate the program through grants to eligible organizations as described in RCW 43.185.060. A minimum of two programs shall be established in two counties in which community justice centers are located. The pilot programs shall be selected through a request for proposal process in consultation with the department of corrections. The department shall select the pilot sites by January 1, 2008.

(a) The pilot program shall:

(i) Be operated in collaboration with the community justice center existing in the location of the pilot site;

(ii) Offer transitional supportive housing that includes individual support and mentoring available on an ongoing basis, life skills training, and close working relationships with community justice centers and community corrections officers. Supportive housing services can be provided directly by the housing operator, or in partnership with community-based organizations;

(iii) In providing assistance, give priority to offenders who are designated as high risk or high needs as well as those determined not to have a viable release plan by the department of corrections; and

(iv) Provide housing assistance for a period of up to twelve months for a participating offender.

(b) The department may also use up to twenty percent of the funds in this subsection to support the development of additional supportive housing resources for offenders who are reentering the community.

(c) The department shall collaborate with the department of corrections in the design of the program and development of criteria to determine who will qualify for housing assistance, and shall report to the legislature by November 1, 2008, on the number of offenders seeking housing, the number of offenders eligible for housing, the number of offenders who receive the housing, and the number of offenders who commit new crimes while residing in the housing.

((~~(20)~~)) (18) $288,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for community transition coordination networks and county service inventories as generally described in Engrossed Substitute Senate Bill No. 6157 (offender recidivism). Funds are provided for: (a) Grants to counties to inventory services and resources available to assist offenders reentering the community; (b) a grant to the Washington institute for public policy to develop criteria for conducting the inventory; and (c) the department of community, trade, and economic development to assist with the inventory and implement a community transition coordination network pilot program.

((~~(21) $75,000~~)) (19) $150,000 of the general fund—state appropriation for fiscal year 2008 ((~~and $75,000 of the general fund—state appropriation for fiscal year 2009 are~~)) is provided solely for a grant to the center for advanced manufacturing to assist domestic businesses to compete globally.

((~~(22)~~)) (20) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant to the developmental disabilities council to contract for legal services for individuals with developmental disabilities entering or currently residing in the department of social and health services division of developmental disabilities community protection program.

((~~(23)~~)) (21) $50,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant to Safe Havens to provide supervised visitation for families affected by domestic violence and abuse.

((~~(24)~~)) (22) $408,000 of the general fund—state appropriation for fiscal year 2008 and $623,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for grants to county juvenile courts to expand the number of participants in juvenile drug courts consistent with the conclusions of the Washington state institute for public policy evaluation of effective programs to reduce future prison populations.

((~~(25)~~)) (23) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Second Substitute Senate Bill No. 5652 (microenterprise development), including grants to microenterprise organizations for organizational capacity building and provision of training and technical assistance. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(26)~~)) (24) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to ((~~establish the state economic development commission as an independent state agency consistent with~~)) implement Second

Substitute Senate Bill No. 5995 (economic development commission). ((~~If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.~~

~~(27)~~)) (25) $150,000 of the general fund—state appropriation for fiscal year 2008 and $150,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support international trade fairs.

(((~~28~~))) (26) $50,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for a study to survey best practices for smart meters/ smart grid/smart appliance technology and the range of applications for smart meters around the country. The survey shall include, but is not limited to, utilities using smart meters to: (a) Meter responses to time-of-use pricing, (b) meter savings from direct load control programs, (c) manage operations costs, (d) identify power outages, (e) meter voluntary interruptible power programs, (f) facilitate pay-as-you-go programs, and (g) enhance billing operations. The study will compare the survey results with Washington's electric utility power system including considerations of electricity price variations between peak and off-peak prices, seasonal price variations, forecast demand, conservation goals, seasonal or daily distribution or transmission constraints, etc., to identify the applications where smart meters may provide particular value to either individual consumers, individual Washington electric utility power systems, or the overall electric power grid in Washington, and to meeting state conservation and energy goals. The department shall complete the study and provide a report to the governor and the legislature by December 1, 2007.

(((~~30~~))) (27)(a) $500,000 of the general fund—state appropriation for fiscal year ((~~2008 is provided for a pilot program to provide assistance for three jurisdictions to enforce financial fraud and identity theft laws. Three pilot enforcement areas shall be established on January 1, 2008, two in the two largest counties by population west of the crest of the Cascade mountains and one in the largest county by population east of the crest of the Cascade mountains. Funding received for the purpose of this subsection through appropriations, gifts, and grants shall be divided equally between the three pilot enforcement areas. This funding is intended to provide for additional deputy prosecutors, law enforcement, clerical staff, and other support for the prosecution of financial fraud and identity theft crimes. The funding shall not be used to supplant existing funding and cannot be used for any purpose other than enforcement of financial fraud and identity theft laws. Appropriated state funds must be used to match gifts and grants of private-sector funds for the purposes of this subsection, and expenditure of appropriated state funds may not exceed expenditure of private funds.~~

~~(b) The department shall appoint a task force in each county with a pilot enforcement area. Each task force shall include the following members:~~

~~(i) Two members from financial institutions;~~

~~(ii) One member of the Washington association of county prosecutors;~~

~~(iii) One member of the Washington association of sheriffs and police chiefs;~~

~~(iv) One member of the Washington state association of municipal attorneys; and~~

~~(v) One law enforcement officer.~~

~~(c) The task force in each county shall provide advice and expertise in order to facilitate the prosecutor's efforts to prosecute and reduce the incidence of financial fraud and identity theft crimes, including check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments, organized counterfeit check rings, and organized identity theft rings~~)) 2009 is provided solely for the implementation of Second Substitute House Bill No. 1273 (financial fraud). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

((~~(31)~~)) (28) $125,000 of the general fund—state appropriation for fiscal year 2008 and $125,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant to Grays Harbor county for activities associated with southwest Washington coastal erosion investigations and demonstrations.

((~~(32)~~)) (29) $112,000 of the general fund—state appropriation for fiscal year 2008 and $113,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant to the retired senior volunteer program.

((~~(33)~~)) (30) $200,000 of the general fund—state appropriation for fiscal year 2008 and $200,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant to the Benton and Franklin county juvenile and drug courts. The grant is contingent upon the counties providing equivalent matching funds.

((~~(34)~~)) (31) $50,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant to the Seattle aquarium for a scholarship program for transportation and admission costs for classrooms with lower incomes, English as second language or special needs.

((~~(35)~~)) (32) $256,000 of the general fund—state appropriation for fiscal year 2008 and $256,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the long-term care ombudsman program.

((~~(36)~~)) (33) $425,000 of the general fund—state appropriation for fiscal year 2008 and $425,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the Washington state association of counties for the county training program.

((~~(37)~~)) (34) $495,000 of the general fund—state appropriation for fiscal year 2008 and $495,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the northwest agriculture business center.

((~~(38)~~)) (35) ((~~$200,000~~)) $40,000 of the general fund appropriation for fiscal year 2008 ((~~is~~)) and $160,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a program to build capacity and promote the development of nonprofit community land trust organizations in the state. Funds shall be granted through a competitive process to community land trusts with assets under one million dollars, and these funds shall be used for operating costs, technical assistance, and other eligible capacity building expenses to be determined by the department.

((~~(39)~~)) (36) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to centro latino to provide adult basic education that includes but is not limited to: English as a second language, Spanish literacy

training, work-readiness training, citizenship classes, programs to promote school readiness, community education, and entrepreneurial services.

((~~(40)~~)) (37) $500,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$500,000~~)) $800,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to resolution Washington to build statewide capacity for alternative dispute resolution centers and dispute resolution programs that guarantee that all citizens have access to a low-cost resolution process as an alternative to litigation. Of the fiscal year 2009 funding, $300,000 is to assist the centers in providing mediation services for parties with parenting plan disputes who either (a) are currently involved in dissolution proceedings or (b) completed a dissolution within the past year. The funding provided by this subsection does not constitute state funding to counties for the purposes of RCW 26.09.015(2)(b).

((~~(41)~~)) (38) $2,000,000 of the general fund—state appropriation for fiscal year 2008 and $2,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Second Substitute House Bill No. 1303 (cleaner energy). Of these amounts, $487,000 of the general fund—state appropriation for fiscal year 2008 is provided solely as pass-through funding to the department of ecology to conduct the climate advisory team stakeholder process and related staffing, analysis, and public outreach costs. The department shall retain ((~~$1,500,000~~)) $1,013,000 for expenditures related to the operations of the energy freedom authority, and the support of the vehicle workgroup and the carbon market stakeholder workgroup and any other activities required of the department by the bill. The department shall enter into interagency agreements with other agencies to implement the bill in the following amounts: (a) $1,500,000 shall be provided to the climate impacts group at the University of Washington for climate assessments; (b) $200,000 shall be provided to the University of Washington college of forest resources for identification of barriers to using the state's forest resources for fuel production; and (c) $800,000 shall be provided to the Washington State University for analyzing options for market incentives to encourage biofuels production. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(42)~~)) (39) $347,000 of the general fund—state appropriation for fiscal year 2008 and $348,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to Western Washington University to support small business development centers and underserved economic development councils with secondary research services. Of the amounts in this subsection, $500,000 is intended for research services and shall be divided evenly between 25-50 small business development centers and underserved economic development councils and $195,000 shall be used to develop infrastructure, training programs, and marketing materials.

((~~(43)~~)) (40) $100,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for a study on improving the effectiveness of the growth management act. Topics may include but are not limited to: How best to meet and finance infrastructure and service needs of growing communities; how to provide incentives to accommodate projected growth and protect resource lands and critical areas; and how local governments are prepared to address land use changes associated with climate change.

((~~(44)~~)) (41) $75,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$75,000~~)) $175,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the Poulsbo marine science center.

((~~(45)~~)) (42) $1,625,000 of the general fund—state appropriation for fiscal year 2008 and $1,625,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for operating and capital equipment and facility grants to the following public television and radio stations: KPBX/KSFC, $863,525; KPLU, $733,525; KVTI, $108,550; KDNA, $29,205; KSER, $338,325; KNHC, $146,620; KSPS, $568,750; and KBTC, $461,500.

((~~(46)~~)) (43) $200,000 of the general fund—state appropriation for fiscal year 2008 and $200,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the safe and drug free schools and communities program.

((~~(47)~~)) (44) $102,000 of the general fund—state appropriation for fiscal year 2008 and $103,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the University of Washington's college of forest resources center for international trade in forest products.

((~~(48)~~)) (45) $471,000 of the general fund—state appropriation for fiscal year 2008 and $471,000 of the general fund—state appropriation for fiscal year 2009 are provided solely as pass-through funding to Walla Walla community college for its water and environmental center.

((~~(49)~~)) (46) $65,000 of the general fund—state appropriation for fiscal year 2008 and $65,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

((~~(50)~~)) (47)(a) $200,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for a study to examine the fiscal health of counties. The study shall address spending and revenues, as well as the demographic, geographic, social, economic, and other factors contributing to or causing financial distress. The study shall also examine the financial efficiencies, cost savings, and improved levels of service that may be gained by authorizing noncharter counties greater flexibility in altering their forms of governance, including consolidating or merging constitutional or statutory functions or structures.

(b) The department of community, trade, and economic development may contract or consult with any agency, organization, or other public or private entity as it deems necessary in order to complete the study required under this section. The study may contain options and actions for consideration by the governor and the legislature, but at minimum shall recommend the changes to constitutional and statutory law necessary to provide counties with the legal authority required to implement the changes in governmental structures and functions needed to promote optimum financial efficiency and improved services. The study shall be transmitted to the appropriate committees of the legislature and the governor by December 1, 2007.

((~~(51)~~)) (48) $2,136,000 of the general fund—state appropriation for fiscal year 2008 and $2,136,000 of the general fund—state appropriation for fiscal

year 2009 are provided solely for the operation and expense of the "closing the achievement gap-flight program" of the Seattle public schools during the 2007-09 biennium. The funds will be used in support of a collaboration model between the Seattle public schools and the community. The primary intent for this program is to close the academic achievement gap for students of color and students in poverty by promoting parent and family involvement and enhancing the social-emotional and the academic support for students. By June 30, 2009, the Seattle public schools will provide and evaluation of the impact of the activities funded on class size, graduation rates, student attendance, student achievement, and closing the achievement gap.

((~~(52)~~)) (49) $1,000,000 of the general fund—state appropriation for fiscal year 2008 ((~~and~~)), $1,000,000 of the general fund—state appropriation for fiscal year 2009, and $200,000 of the public safety and education account—state appropriation for fiscal year 2009 are provided solely for crime victim service centers.

((~~(53)~~)) (50) $41,000 of the general fund—state appropriation for fiscal year 2008 and $36,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for House Bill No. 1038 (electric transmission lines). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

((~~(54)~~)) (51) $1,000,000 of the independent youth housing account is provided for Second Substitute House Bill No. 1922 (youth housing program). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

((~~(55)~~)) (52) $227,000 of the general fund—state appropriation for fiscal year 2008 and $127,000 of the general fund—state appropriation for fiscal year ((~~2008~~)) 2009 are provided solely for Second Substitute House Bill No. 1636 (development rights). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(56)~~)) (53) $35,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for Substitute House Bill No. 1037 (electrical transmission). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

((~~(57)~~)) (54) $131,000 of the general fund—state appropriation for fiscal year 2008 ((~~and $62,000 of the general fund—state appropriation for fiscal year 2009 are~~)) is provided solely for Engrossed Second Substitute House Bill No. 1705 (health sciences and services). ((~~If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.~~

~~(58)~~)) (55) $881,000 of the general fund—state appropriation for fiscal year 2008 and $882,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to: (a) Work with a statewide asset building coalition to design, implement, and fund a public education and outreach campaign; and (b) initiate, expand, and strengthen community-based asset building coalitions by providing them with technical assistance and grants. The department shall conduct an application process and select at least twelve sites by October 31, 2007. Of the amounts provided in this subsection, no more than 10 percent may be used by the department to administer the technical assistance and grant program. The department shall report to the appropriate

committees of the legislature on the status of the grant and technical assistance program by December 1, 2008.

(((~~(59)~~))) (56) $15,200,000 of the affordable housing account—state appropriation and $16,200,000 of the home security fund account—state appropriation are provided solely for Engrossed Second Substitute House Bill No. 1359 (affordable housing). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(((~~(60)~~))) (57) $350,000 of the community preservation and development authority account—state appropriation is provided solely for Substitute Senate Bill No. 6156 (development authorities). If this bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(58) $600,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for distribution to community sexual assault programs by the office of crime victims advocacy for the purpose of enhancing services provided to child victims of sexual abuse and their families. Enhanced services may include expanded hours of medical and legal advocacy, expanded hours of therapy for the child victim, increased support to nonoffending family members, and the development of a standardized child-centered approach to service delivery.

(59) $750,000 of the public safety and education account—state appropriation for fiscal year 2009 is provided solely to the office of crime victims advocacy. These funds shall be contracted with the 39 county prosecuting attorneys' offices to support victim-witness services. The funds must be prioritized to ensure a full-time victim-witness coordinator in each county. The office may retain only the amount currently allocated for this activity for administrative costs.

(60) $75,000 of the public safety and education account appropriation for fiscal year 2009 is provided solely for the update of statewide sexual assault victim assistance protocols through a coordinated effort led by the Washington coalition of sexual assault programs.

(61) $2,500,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the transitional housing operating and rent program.

(62) $500,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Airway Heights wastewater treatment plant and is contingent upon a capacity agreement with the Kalispel tribe that precludes the need to build multiple wastewater treatment facilities on the West Plains.

(63) $344,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington New Americans program to provide naturalization assistance for legal permanent residents who are eligible to become citizens. The department shall conduct a competitive process to contract with an entity to provide this assistance, which shall include, but is not limited to: Curriculum design, counseling, outreach to immigrant communities, application processing and legal screening, and citizenship preparation services. The state funding is contingent upon receipt, by the contractor(s) of at least a twenty-five percent match of nonstate funding. The department and the contractor(s) shall develop performance measures for the program and within sixty days of the close of each fiscal year for which state funding is provided, shall report to the governor and the legislature on the outcome of the program and the performance measures. The department may retain up to five percent of

the funds provided in this subsection to administer the competitive process and the contract. It is the intent of the legislature that $2,000,000 be provided in the 2009-11 fiscal biennium to conclude this program.

(64) $40,000 of the general fund—state appropriation for fiscal year 2008 and $40,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for distribution to the Island county associate development organization and is contingent upon the enactment of, and provides specific funding for, Substitute Senate Bill No. 6195 (definition of rural county for economic development purposes). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(65) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of sections 1 through 7 of Engrossed Second Substitute Senate Bill No. 6111 (tidal and wave energy). If these sections of this bill are not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(66) $41,000 of the building code council account—state appropriation is provided solely for implementation of Substitute House Bill No. 2575 (fire sprinkler systems). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(67) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Second Substitute House Bill No. 2712 (criminal street gangs). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(68) $207,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Second Substitute House Bill No. 2815 (greenhouse gas emissions). The amount provided in this subsection includes $50,000 for the analysis under section 9(3)(b) of the bill. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(69) $50,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Substitute House Bill No. 3120 (construction tax incentive). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(70) $350,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Second Substitute Senate Bill No. 6483 (local farms and healthy kids). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(71) $134,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Engrossed Second Substitute House Bill No. 2844 (urban forestry). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(72) $250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a grant to the Lucy Lopez center for "the good citizen" bilingual radio programming pilot project.

(73) $400,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a grant to the pacific science center to support the "Lucy of Laetoli" exhibit.

(74) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a grant to the local organizing committee of 2008 Skate

America to support the international skating union grand prix series at the Everett events center in October, 2008.

(75) $225,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for development of the Lewis county watershed planning and economic development demonstration project. The purpose of the project is to identify lands and resources suitable for economic development within Lewis county and outside of the floodplains of Chehalis and Cowlitz river watersheds. It is the intent of the legislature that $725,000 to complete this project will be provided in the 2009-11 fiscal biennium.

(a) Of this amount, the department shall provide $75,000 each to the department of fish and wildlife and the department of ecology to develop a watershed characterization and to conduct a local habitat assessment, develop recommendations, and provide technical assistance in support of a demonstration watershed planning and economic development project in Lewis county.

(b) $75,000 of the amount provided in this subsection is provided solely for a grant to Lewis county to fund development of a subarea plan, consistent with the provisions of chapter 36.70A RCW, for rural economic development that is based on the watershed characterization and local habitat assessment funded in (a) of this subsection. The department may retain no more than thirty percent for grant administration and technical assistance.

(c) The subarea plan to be funded shall be developed by a broad-based local stakeholder group with state agency technical assistance, and shall include the following:

(i) Defined area or areas for future economic development outside the 100-year floodplain. Areas planned for economic development requiring urban levels of service must be designated on the land use map as an urban growth area consistent with RCW 36.70A.110;

(ii) Defined area or areas of designated agricultural, forestry, wildlife habitat, and other critical area lands;

(iii) Mechanisms to achieve long-term conservation of important aquatic and terrestrial resources in the subarea;

(iv) Defined mitigation and restoration areas;

(v) Identification of capital facility improvements needed to implement the plan, and a plan to finance such capital facilities within projected funding capacities;

(vi) Discussion of the relationship between the plan and other existing, adopted plans and regulations including but not limited to county and city comprehensive plans, as appropriate, critical areas and shoreline regulations, transportation, salmon recovery, watershed, and water resource inventory area plans;

(vii) A plan for monitoring and adaptive management; and

(viii) Adoption by the local government affected as an amendment to its comprehensive plan pursuant to chapter 36.70A RCW, after review and recommendations on the plan by a broad-based local stakeholder group.

(76) $21,000 of the general fund—state appropriation for fiscal year 2008 and $54,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to conduct a study of the provision of personal products (nonfoodstuffs) to low income residents of Washington.

These items include, but are not limited to, hygiene products, cleaning supplies, and clothing. The study shall include: (a) An assessment of current services, including acquisition, donation, distribution, and delivery of personal products to those in need; (b) compilation of information of similar programs in other states; (c) identification and evaluation of options for improving efficiency of current services and expansion of programs to those not currently served; and (d) recommendations for consideration in the 2009-11 fiscal biennium. The department shall assemble an advisory group to guide the conduct of the study. The department shall provide a report of the study findings to the governor and the appropriate committees of the legislature by December 15, 2008.

(77) $306,000 of the manufacturing innovation and modernization account—state appropriation is provided solely to implement Substitute Senate Bill No. 6510 (manufacturing extension services). $75,000 of this amount shall be to develop a rural manufacturer export outreach program in collaboration with the small business export finance assistance center and to contract with the center to provide outreach services to rural manufacturing businesses in Washington to inform them of the importance of, and opportunities in, international trade and to inform them of the export assistance programs available to assist these businesses to become exporters. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(78) $120,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the regional visitor/media pavilion at the 2010 Olympic games in Vancouver, British Columbia.

(79) $200,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a grant to HistoryLink to develop Alaska-Yukon-Pacific exposition commemoration exhibits and programs.

(80) $126,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed House Bill No. 3142 (rapid response loan program). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(81) $100,000 of the prostitution prevention and intervention account—nonappropriated is for distribution as grants by the office of crime victims advocacy. The grants shall be prioritized to law enforcement training including law enforcement training regarding the availability of services for minors under chapter 13.32A RCW, community outreach and education and treatment and services to address the problems of minors who have a history of engaging in sexual conduct for a fee or who are victims of commercial sexual abuse of a minor or both, including but not limited to mental health and chemical dependency services, parenting services, housing assistance, education and vocational training, or intensive case management services.

(82) $5,000 of the general fund—state appropriation for fiscal year 2008 and $20,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant for tourism promotion in Keystone.

(83) $5,000 of the general fund—state appropriation for fiscal year 2008 and $20,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant for tourism promotion in Port Townsend.

(84) $126,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement sections 1 through 13, 43, and 44 of

Engrossed Substitute Senate Bill No. 5959 (transitional housing). If these sections of this bill are not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(85) $317,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement Engrossed Substitute Senate Bill No. 6580 (climate change), including sections 2 and 3 of the bill. If the bill and sections 2 and 3 are not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 125 was partially vetoed. See message at end of chapter.**

Sec. 126. 2007 c 522 s 128 (uncodified) is amended to read as follows:

FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL

General Fund—State Appropriation (FY 2008) . . . . . ((~~$608,000~~)) $726,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$631,000~~)) $827,000

TOTAL APPROPRIATION . . . . . ((~~$1,239,000~~)) $1,553,000

The appropriations in this section are subject to the following conditions and limitations: The economic and revenue forecast council, in its quarterly revenue forecasts, shall forecast the total revenue for the state general fund and near general fund, as those funds are determined by the legislative evaluation and accountability program committee.

***Sec. 127.** 2007 c 522 s 129 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund—State Appropriation (FY 2008) . . . . . ((~~$24,175,000~~)) $24,110,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$23,323,000~~)) $35,290,000

General Fund—Federal Appropriation . . . . . ((~~$23,588,000~~)) $23,934,000

General Fund—Private/Local Appropriation . . . . . ((~~$1,270,000~~)) $1,269,000

State Auditing Services Revolving Account—State Appropriation. $25,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2008) $123,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2009) $123,000

Economic Development Strategic Reserve Account—State Appropriation $175,000

TOTAL APPROPRIATION . . . . . ((~~$72,627,000~~)) $85,049,000

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

(1) ((~~$75,000~~)) $33,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$75,000~~)) $58,000 of the general fund—state appropriation for fiscal year 2009 are provided for a contract with the Ruckelshaus center to

continue the agricultural pilot programs that identify projects to enhance farm income and improve natural resource protection. Specific work will include project outreach and refinement, stakeholder support, staffing the oversight committee, seeking federal and private match funding, and further refining the list of projects to be recommended for funding.

(2) ((~~$175,000~~)) $155,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$175,000~~)) $254,000 of the general fund—state appropriation for fiscal year 2009 are provided for a contract with the Ruckelshaus center to fund "proof-of-concept" model and projects recommended by the oversight committee, as provided in subsection (1) of this section.

(3) $580,000 of the general fund—state appropriation for fiscal year 2008 and $580,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the association of Washington cities and the Washington state association of counties for improving project permitting and mitigation processes.

(4) $320,000 of the general fund—state appropriation for fiscal year 2008 and $320,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the office of regulatory assistance to develop statewide multiagency permits for transportation infrastructure and other projects that integrate local, state, and federal permit requirements and mitigation standards.

(5) $1,050,000 of the general fund—state appropriation for fiscal year 2008 and $1,050,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Second Substitute Senate Bill No. 5122 (regulatory assistance programs). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(6) ((~~$165,000~~)) $190,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$115,000~~)) $90,000 of the general fund—state appropriation for fiscal year 2009 are provided solely ((~~for a study to develop~~)) to implement chapter 139, Laws of 2007 (student transportation funding) which requires development of two options for a new K-12 pupil transportation funding formula. ((~~The office of financial management shall contract with consultants with expertise in both pupil transportation and K-12 finance formulas. The office of financial management and the contractors shall consult with the legislative fiscal committees and the office of the superintendent of public instruction. The office of financial management shall submit a final report to the governor, the house of representatives appropriations committee, and senate ways and means committee by November 15, 2008.~~))

(7) $175,000 of the general fund—state appropriation for fiscal year 2008 and $175,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for financial assistance to local government agencies in counties representing populations of fewer than 350,000 residents for the acquisition and development of streamlined permitting technology infrastructure through an integrated business portal approach. Grant awards may not exceed $100,000 per local government agency per fiscal year. The funding must be used to acquire and implement permit tracking systems that can support and are compatible with a multijurisdictional, integrated approach. Prior to granting funds, the office of regulatory assistance shall ensure that the proposed systems and technology are

based on open-industry standards, allow for future integration of processes and sharing of data, and are extendable.

(8) ((~~$810,000~~)) $474,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$495,000~~)) $831,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of sections 50 through 57 (health resources strategy) of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission on health care). If the bill is not enacted by June 2007, the amounts provided in this subsection shall lapse.

(9) $300,000 of the general fund—state appropriation for fiscal year 2008 and $54,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement section 3 of Substitute Senate Bill No. 5248 (preserving the viability of agricultural lands). Funds are provided for a contract with the Ruckelshaus center to examine conflicts between agriculture activities and critical areas ordinances. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(10) The education data center within the office of financial management may convene a work group to assess the feasibility, costs, and benefits of a higher education data system that uses privacy-protected student-level data.

(11) Within the appropriations in this section, specific funding is provided to implement Engrossed Second Substitute House Bill No. 2631 (regulatory assistance office).

(12) The department shall track all expenditures and FTE utilization in state government related to work on Initiative Measure No. 960 requirements, and shall provide a report to the fiscal committees of the legislature by November 1, 2008.

(13) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the office of financial management to establish and provide staff support for the Washington citizens' work group on health care reform, pursuant to Engrossed Substitute Senate Bill No. 6333.

(14) $11,372,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the development and implementation of the Washington assessment of student learning (WASL) and related activities and is in addition to the funding amounts provided in section 511 of this act. The funding provided in this subsection is subject to the following conditions and limitations: The office of financial management shall develop an interagency agreement with the office of the superintendent of public instruction for the expenditure of these funds based on a quarterly allotment schedule. Before releasing funds to the office of the superintendent of public instruction each quarter, the office of financial management shall ensure compliance with this subsection. Effective with the 2009 administration of the Washington assessment of student learning, while maintaining the reliability and validity of the assessment, the office of the superintendent of public instruction shall redesign the assessment in the content areas of reading, mathematics, and science in all grades except high school by shortening test administration, reducing the number of short answer and extended response questions, and potentially decreasing the number of items utilized in the assessment, particularly in grades tested under the requirements of the federal no child left

behind act. In selecting and developing the new contractual obligations for the assessment contractor beginning in fiscal year 2009, the office of the superintendent of public instruction shall preserve legislative authority to set the student learning assessment policy and potentially make minor or significant changes to that policy in the future with the least amount of adverse fiscal and other impacts to the state as possible. In doing this, the office of the superintendent of public instruction shall advise and consult with the appropriate policy and fiscal committees of the legislature and the Washington assessment of student learning work group created in this subsection. Within the amounts appropriated in this subsection, a legislative work group on the Washington assessment of student learning is established. The work group will consist of a maximum of nine members. Legislative members shall be appointed by the president of the senate and the speaker of the house of representatives and shall represent the two largest caucuses of both the senate and the house of representatives. The purpose of this work group is to review and evaluate the current assessment system by January 1, 2009, and potentially make recommendations to improve it. Of the amount provided in this section, $150,000 is provided solely for costs associated with hiring independent technical experts to advise the Washington assessment of student learning work group created in this subsection.

(15) Through prior legislation, many state activities that protect the general public by safeguarding health, safety, employees, and consumers are supported by fees assessed on items such as licensing, registration, certification, and inspections. Moreover, higher education, workforce training, and a number of other government services are supported at least in part by fees assessed on those who participate in these programs. Therefore, the office of financial management shall conduct a review and analysis of all fees for which the legislature has delegated to state agencies and institutions of higher education the ability to establish and determine the amount, either upon initial establishment or subsequent increases. Fees, as used in this subsection, has the same meaning as used in RCW 43.135.055. The objective of the review and analysis is to document the level of fees paid over the past five years, the cost of those programs over that same time period, and, to the extent available, the effectiveness of the activity in meeting its performance targets. The review and analysis shall include the following information:

(a) Information about the program, including the statutory authority for the program, date enacted, and the parties that benefit from the program; and

(b) Information about the program fees, including name and description of the fees, the parties that bear the cost of the fees, the methodology for determining the fees, and whether the fees directly fund the program; and

(c) Financial related information, including an assessment of the program's fee amount assessed over the past five years, the scope of the program and related costs over the past 5 years, and whether the program's expenditures are subject to appropriation or allotment procedures under chapter 43.88 RCW; and

(d) To the extent available, information on the program activities and related performance measures that may assist in assessing the effectiveness of the program in achieving its goals.

The office of financial management shall report its findings to the governor and the fiscal committees of the legislature by October 1, 2008.

***Sec. 127 was partially vetoed. See message at end of chapter.**

Sec. 128. 2007 c 522 s 130 (uncodified) is amended to read as follows:

FOR THE OFFICE OF ADMINISTRATIVE HEARINGS

Administrative Hearings Revolving Account—State Appropriation. . . . . ((~~$33,037,000~~)) $32,703,000

Sec. 129. 2007 c 522 s 131 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF PERSONNEL

General Fund—State Appropriation (FY 2008) $96,000

Department of Personnel Service Account—State Appropriation. . . . . ((~~$30,106,000~~)) $23,618,000

Higher Education Personnel Services Account—State Appropriation. . . . . ((~~$1,794,000~~)) $1,780,000

TOTAL APPROPRIATION . . . . . ((~~$31,900,000~~)) $25,494,000

The appropriations in this section are subject to the following conditions and limitations: The department shall coordinate with the governor's office of Indian affairs on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

Sec. 130. 2007 c 522 s 132 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE LOTTERY

Lottery Administrative Account—State Appropriation. . . . . ((~~$26,382,000~~)) $26,086,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section may not be expended by the Washington state lottery for any purpose associated with a lottery game offered through any interactive electronic device, including the internet.

Sec. 131. 2007 c 522 s 133 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON HISPANIC AFFAIRS

General Fund—State Appropriation (FY 2008) $261,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$276,000~~)) $422,000

TOTAL APPROPRIATION . . . . . ((~~$537,000~~)) $683,000

The appropriations in this section are subject to the following conditions and limitations: $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the commission to engage a contractor to

conduct a detailed analysis of the achievement gap for Hispanic students; recommend a comprehensive plan for closing the achievement gap pursuant to goals under the federal no child left behind act for all groups of students to meet academic standards by 2014; and identify performance measures to monitor adequate yearly progress. The contractor shall conduct the analysis starting with the call to action paper by the multi-ethnic think tank and as guided by the Latino/a educational achievement project and other appropriate groups. The contractor shall submit a study update by September 15, 2008, and submit a final report by December 30, 2008, to the governor, the superintendent of public instruction, the state board of education, the P-20 council, the basic education finance task force, and the education committees of the legislature.

Sec. 132. 2007 c 522 s 134 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS

General Fund—State Appropriation (FY 2008) $257,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$266,000~~))
$262,000
TOTAL APPROPRIATION . . . . . ((~~$523,000~~))
$519,000

Sec. 133. 2007 c 522 s 135 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS

General Fund—State Appropriation (FY 2008) $200,000
General Fund—State Appropriation (FY 2009) $250,000
Dependent Care Administrative Account—State
Appropriation. . . . . ((~~$448,000~~))
$237,000
Department of Retirement Systems Expense Account—
State Appropriation . . . . . ((~~$48,885,000~~))
$48,556,000
TOTAL APPROPRIATION . . . . . ((~~$49,783,000~~))
$49,243,000

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

(1) $15,000 of the department of retirement systems expense account appropriation is provided solely to implement Substitute House Bill No. 1261 (duty disability service credit). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(2) $43,000 of the department of retirement systems expense account appropriation is provided solely to implement House Bill No. 1680 (emergency medical technician service credit). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(3) $72,000 of the department of retirement systems expense account appropriation is provided solely to implement Engrossed Substitute House Bill No. 1649 (judges' past service credit purchases). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(4) $33,000 of the department of retirement systems expense account appropriation is provided solely to implement Substitute House Bill No. 1262

(plan 1 post retirement employment). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(5) $315,000 of the department of retirement systems expense account appropriation is provided solely to implement Engrossed House Bill No. 2391 (gainsharing revisions). If neither bill is enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(6) $12,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 5014 (contribution rates). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(7) $17,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 5175 (retirement annual increases). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(8) $200,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to design a plan for the operation of a universal voluntary retirement accounts program, and then seek approval from the federal internal revenue service to offer the plan to workers and employers in Washington on a tax qualified basis. Features of Washington voluntary retirement accounts plan include a defined contribution plan with a limited pre-selected menu of investment options, administration by the department of retirement systems, investment oversight by the state investment board, tax-deferred payroll deductions, retirement account portability between jobs, and a two-tier system with workplace based individual retirement accounts open to all workers, and a deferred compensation 401(k)-type program or SIMPLE IRA-type program open to all employers who choose to participate for their employees. As part of this process, the director shall consult with the department of financial institutions, the state investment board, private sector retirement plan administrators and providers and other relevant sectors of the financial services industry, organizations promoting increased economic opportunities for individuals, employers, workers, and any other individuals or entities that the director determines relevant to the development of an effective and efficient method for implementing and operating the program. As part of this process, the director shall evaluate the most efficient methods for providing this service and ways to avoid competition with existing private sector vehicles. The director shall undertake the legal and development work to determine how to implement a universal voluntary retirement accounts program, managed through the department of retirement systems directly or by contract. By December 1, 2008, the director shall report to the legislature on the program's design and any required changes to state law that are necessary to implement the program.

(9) $81,000 of the department of retirement systems expense account—state appropriation is provided solely for implementation of Engrossed House Bill No. 2887 (judges' service credit purchases). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(10) $51,000 of the department of retirement systems expense account—state appropriation is provided solely for implementation of House Bill No. 3019 (partial year service credit for school district employees). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(11) $40,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to contract with a skilled facilitator to mediate discussions to identify and document all outstanding issues related to the funding of retiree medical benefits in the law enforcement officers' and fire fighters' retirement system plan 1 and for staff resources to be used to conduct research in support of this effort. The stakeholder group shall include representatives of retired members of the law enforcement officers' and fire fighters' retirement system plan 1, local government employers, the department of retirement systems, and other groups as deemed necessary by the director of the department of retirement systems.

Sec. 134. 2007 c 522 s 136 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$97,793,000~~)) $98,150,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$101,158,000~~)) $105,951,000

Timber Tax Distribution Account—State Appropriation. . . . . ((~~$5,846,000~~)) $5,788,000

Waste Reduction/Recycling/Litter Control—State Appropriation. . . . . ((~~$130,000~~)) $128,000

Waste Tire Removal Account—State Appropriation $2,000

Real Estate Excise Tax Grant Account—State Appropriation. $3,900,000

State Toxics Control Account—State Appropriation . . . . . ((~~$88,000~~)) $87,000

Oil Spill Prevention Account—State Appropriation $16,000

Pension Funding Stabilization Account Appropriation. $2,370,000

TOTAL APPROPRIATION . . . . . ((~~$211,303,000~~)) $216,392,000

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

(1) $95,000 of the general fund—state appropriation for fiscal year 2008 and $71,000 of the general fund—state appropriation for fiscal year 2009 are for the implementation of Substitute House Bill No. 1002 (taxation of vessels). If the bill is not enacted by June 30, 2007, the amounts in this subsection shall lapse.

(2) $31,000 of the general fund—state appropriation for fiscal year 2008 is for the implementation of Substitute House Bill No. 1891 (prescription drugs). If the bill is not enacted by June 30, 2007, the amount in this subsection shall lapse.

(3)(a) $50,000 of the general fund—state appropriation for fiscal year 2008 and $25,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to conduct a study of the taxation of electronically delivered products. The legislature recognizes that chapter . . . (Engrossed Substitute House Bill No. 1981), Laws of 2007, relates to specific types of electronically

delivered products and does not address the taxation of numerous other types of electronically delivered products. Therefore, a policy question remains concerning the sales and use taxation of other electronically delivered products.

(b)(i) To perform the study, the department of revenue shall be assisted by a committee. The committee shall include four legislative members appointed as follows:

(A) The president of the senate shall appoint one member from each of the two largest caucuses of the senate; and

(B) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(ii) The department of revenue shall appoint additional members with balanced representation from different segments of government and industry, and shall consider representation from the following areas: Small and large businesses that generate, deliver, or use electronically delivered products; financial institutions; insurers; persons with expertise in tax law in an academic or private sector setting; and persons experienced in working with computers and electronically delivered products. The department of revenue shall appoint additional members from the department with expertise in the excise taxation of electronically delivered products.

(iii) The committee shall choose its chair from among its membership.

(iv) The department and committee shall review the following issues: The provision of explicit statutory definitions for electronically delivered products; the current excise tax treatment of electronically delivered products in the state of Washington and other states as well as the tax treatment of these products under the streamlined sales and use tax agreement; the administration, costs, and potential recipients of the tax exemptions provided in chapter . . . (Engrossed Substitute House Bill No. 1981), Laws of 2007; and alternatives to the excise taxation of electronically delivered products.

(v) Legislative members of the committee are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members of the committee, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(c) The department shall report its preliminary findings and recommendations to the appropriate fiscal committees of the legislature by November 30, 2007. The department shall provide the final report of its findings and recommendations to the appropriate fiscal committees of the legislature by September 1, 2008.

(4) $1,250,000 of the general fund—state appropriation for fiscal year 2009 is for the implementation of Engrossed Substitute Senate Bill No. 6809 (working families tax exemption). If the bill is not enacted by June 30, 2008, the amounts in this subsection shall lapse. This subsection does not constitute approval of the exemption under section 2, chapter . . . (ESSB 6809), Laws of 2008 or authorize payments of remittances.

(5) $22,000 of the general fund—state appropriation for fiscal year 2009 is for the implementation of Second Substitute House Bill No. 3104 (domestic partnerships). If the bill is not enacted by June 30, 2008, the amounts in this subsection shall lapse.

Sec. 135. 2007 c 522 s 137 (uncodified) is amended to read as follows:

FOR THE STATE INVESTMENT BOARD

State Investment Board Expense Account—State Appropriation. . . . . ((~~$19,266,000~~)) $24,333,000

The appropriation in this section is subject to the following conditions and limitations:

(1) $2,500,000 of the state investment board expense account—state appropriation is provided solely for development of an investment data warehouse. This funding is intended to replace existing funding from nonbudgeted funds, with the intent that further expenditures for this project be made only by appropriation.

(2) $1,791,000 of the state investment board expense account is for compensation and incentives for investment officers. Of this amount, $852,000 is provided solely for implementation of Substitute House Bill No. 3149 (state investment board personnel compensation). The state investment board shall include funding for any future salary increases authorized under RCW 43.33A.100 in the agency's budget request submitted in accordance with chapter 43.88 RCW in advance of granting related salary increases. The biennial salary survey required under RCW 43.33A.100 shall also be provided to the office of financial management and to the fiscal committees of the legislature as part of the state investment board's biennial budget submittal.

Sec. 136. 2007 c 522 s 138 (uncodified) is amended to read as follows:

FOR THE BOARD OF TAX APPEALS

General Fund—State Appropriation (FY 2008) $1,502,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,380,000~~)) $1,354,000
TOTAL APPROPRIATION . . . . . ((~~$2,882,000~~)) $2,856,000

Sec. 137. 2007 c 522 s 139 (uncodified) is amended to read as follows:

FOR THE MUNICIPAL RESEARCH COUNCIL

County Research Services Account—State Appropriation $847,000
City and Town Research Services—State Appropriation. $4,458,000
General Fund—State Appropriation (FY 2008) $200,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$200,000~~)) $225,000
TOTAL APPROPRIATION . . . . . ((~~$5,705,000~~)) $5,730,000

The appropriations in this section are subject to the following conditions and limitations: $25,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Substitute House Bill No. 3274 (port district contracting). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

Sec. 138. 2007 c 522 s 140 (uncodified) is amended to read as follows:

FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

OMWBE Enterprises Account—State Appropriation . . . . . ((~~$3,650,000~~)) $3,615,000

The appropriations in this section are subject to the following conditions and limitations: $19,000 of the OMWBE enterprise account—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1512 (linked deposit program). ((~~If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.~~))

Sec. 139. 2007 c 522 s 141 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

General Fund—State Appropriation (FY 2008) . . . . . ((~~$577,000~~)) $591,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$580,000~~)) $590,000

General Fund—Federal Appropriation . . . . . ((~~$3,655,000~~)) $3,651,000

General Administration Service Account—State Appropriation. . . . . ((~~$34,951,000~~)) $36,929,000

TOTAL APPROPRIATION . . . . . ((~~$39,763,000~~)) $41,761,000

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

((~~(2)~~)) (1) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the temporary emergency food assistance program.

(2) Within the appropriations in this section, specific funding is provided to implement Second Substitute House Bill No. 1332 (affordable housing).

(3) $391,000 of the general administration services account—state appropriation for fiscal year 2009 is provided solely for implementation of costs associated with the planning of agency moves out of the general administration building.

(4) The department shall work with the office of financial management to develop a plan that balances revenues and expenditures for each line of business within the general administration services account. State agency rates developed for the 2009-2011 biennium must equitably and reasonably reflect the actual cost of services provided to state agencies including the appropriate allocation of agency overhead costs. By August 31, 2008, the department shall submit to the office of financial management and the fiscal committees of the legislature financial statements for each line of business that shall inform the basis for agency rate development for the forthcoming biennium.

(5) The department shall submit a report to the office of financial management and the fiscal committees of the legislature that responds to each of the state auditor's motor pool audit recommendations by August 31, 2008. This report shall consist of recommendations that have been adopted by the

department, progress made towards achieving those recommendations not yet completed, and justification for why the department is unable to fulfill any of the recommendations in the report.

Sec. 140. 2007 c 522 s 142 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF INFORMATION SERVICES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$5,102,000~~)) $2,762,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,088,000~~)) $4,623,000

General Fund—Federal Appropriation . . . . . ((~~$700,000~~)) $1,920,000

((~~Health Services Account—State Appropriation (FY 2008) . . . . . $1,000,000~~

~~Health Services Account—State Appropriation (FY 2009) . . . . . $1,000,000~~))

Public Safety and Education Account—State Appropriation (FY 2008) $695,000

Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$705,000~~)) $698,000

Data Processing Revolving Account—State Appropriation . . . . . ((~~$6,400,000~~)) $6,377,000

TOTAL APPROPRIATION . . . . . ((~~$17,690,000~~)) $17,075,000

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

(1) $2,340,000 of the general fund—state appropriation for fiscal year ((~~2008~~)) 2009 is provided solely to connect eastern state hospital to the integrated hospital information system, which is intended to improve operations and allow greater interactions between the hospital and community clinics, including electronic transmission of inpatient data to outpatient clinics that will provide care following discharge. Connection to this network will allow consultation with specialists and provide access to training for staff. Prior to any purchase of goods or services, a feasibility plan must be approved by the information services board.

(2) $1,250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to support the operations of the digital learning commons.

(3) ((~~$1,000,000 of the health services account appropriation for fiscal year 2008 and $1,000,000 of the health services account appropriation for fiscal year 2009 are provided solely to conduct a pilot project to develop an emergency medical response health management record system. The department shall contract to provide health management record services, such as those developed with patients in Whatcom county, to provide integrated care management that are web-services enabled. The record system developed by the pilot project will begin to provide services to emergency medical personnel within two years in at least King, Snohomish, Thurston, and Whatcom counties. The requirements of the pilot project contract shall require the initial development of specific evaluation criteria and a report on the performance of the system according to those criteria no later than June 30, 2009.~~

~~(4)~~)) $1,012,000 of the general fund—state appropriation for fiscal year 2008 and $338,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for an evaluation of the information technology infrastructure capacity for institutions operated by the department of social and health services, department of veterans affairs, and department of corrections. The evaluation will detail the status of the participating institutions' infrastructure and recommend an improvement strategy that includes the use of electronic medical records. The department shall report back to the appropriate committees of the legislature on its findings by January 1, 2009.

((~~(5)~~)) (4) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for deposit into the data processing revolving account.

(5) $195,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6438 (internet deployment/adoption), including sections 1 through 5 of the bill. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

Sec. 141. 2007 c 522 s 143 (uncodified) is amended to read as follows:

FOR THE INSURANCE COMMISSIONER

General Fund—Federal Appropriation . . . . . ((~~$1,574,000~~))
$1,564,000

Insurance Commissioners Regulatory Account—State
Appropriation. . . . . ((~~$45,340,000~~))
$45,442,000

TOTAL APPROPRIATION . . . . . ((~~$46,914,000~~))
$47,006,000

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

(1) $464,000 of the insurance commissioners regulatory account—state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5717 (market conduct oversight). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(2) $71,000 of the insurance commissioners regulatory account—state appropriation is provided solely for the implementation of section 17 (reduce health care administrative costs) in accordance with Senate Bill No. 5930 (blue ribbon commission on health care). If the section is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(3) $286,000 of the insurance commissioner's regulatory account—state appropriation for fiscal year 2009 is provided solely for the insurance commissioner to convene a work group of health care providers, carriers, and payers, to identify and develop strategies to achieve savings through streamlining administrative requirements and procedures, as recommended in the report submitted pursuant to section 17, chapter 259, Laws of 2007. By December 1, 2008, the commissioner shall submit a report to the governor and the legislature that identifies the five highest priority goals for achieving significant efficiencies and reducing health care administrative costs, and a plan to accomplish these goals.

Sec. 142. 2007 c 522 s 144 (uncodified) is amended to read as follows:

FOR THE BOARD OF ACCOUNTANCY

Certified Public Accountants' Account—State Appropriation. . . . . ((~~$2,596,000~~)) $2,575,000

Sec. 143. 2007 c 522 s 146 (uncodified) is amended to read as follows:

FOR THE HORSE RACING COMMISSION

Horse Racing Commission Operating Account—State Appropriation. . . . . ((~~$5,499,000~~)) $5,441,000

The appropriation in this section is subject to the following conditions and limitations: During the 2007-2009 fiscal biennium, the commission may increase license fees in excess of the fiscal growth factor as provided in RCW 43.135.055.

Sec. 144. 2007 c 522 s 147 (uncodified) is amended to read as follows:

FOR THE LIQUOR CONTROL BOARD

General Fund—State Appropriation (FY 2008) $1,910,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,953,000~~)) $1,912,000

Liquor Control Board Construction and Maintenance Account—State Appropriation . . . . . ((~~$8,517,000~~)) $13,430,000

Liquor Revolving Account—State Appropriation . . . . . ((~~$195,858,000~~)) $194,799,000

TOTAL APPROPRIATION . . . . . ((~~$208,238,000~~)) $212,051,000

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

(1) $91,000 of the liquor revolving account—state appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5859 (retail liquor licenses). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(2) $2,070,000 of the liquor revolving account—state appropriation is provided solely for the liquor control board to operate an additional 29 state stores on Sundays by September 1, 2007. The board shall determine the impacts on sales as a result of operating the additional stores on Sunday. In doing so, the liquor control board shall also examine the sales of state and contract liquor stores in proximity to those stores opened on Sundays to determine whether Sunday openings have reduced the sales of other state and contract liquor stores that are not open on Sundays. The board shall present this information to the appropriate policy and fiscal committees of the legislature by January 31, 2009.

Sec. 145. 2007 c 522 s 148 (uncodified) is amended to read as follows:

FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS

Volunteer Firefighters' and Reserve Officers' Administrative Account—State Appropriation . . . . . ((~~$1,051,000~~)) $1,042,000

The appropriation in this section is subject to the following conditions and limitations: $9,000 of the volunteer firefighters' and reserve officers' administrative account appropriation is provided solely to implement House Bill No. 1475 (additional board members). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

Sec. 146. 2007 c 522 s 149 (uncodified) is amended to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION

General Fund—State Appropriation (FY 2008) $160,000

Public Service Revolving Account—State Appropriation. . . . . ((~~$31,403,000~~)) $31,118,000

Pipeline Safety Account—State Appropriation . . . . . ((~~$3,195,000~~)) $3,167,000

Pipeline Safety Account—Federal Appropriation $1,535,000

TOTAL APPROPRIATION . . . . . ((~~$36,293,000~~)) $35,980,000

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

(1) In accordance with RCW 81.66.030, it is the policy of the state of Washington that the costs of regulating the companies transporting persons with special needs shall be borne by those companies. For each company or class of companies covered by RCW 81.66.030, the commission shall set fees at levels sufficient to fully cover the cost of supervising and regulating the companies or classes of companies. Pursuant to RCW 43.135.055, during the 2007-2009 fiscal biennium, the commission may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the cost of supervision and regulation.

(2) In accordance with RCW 81.70.350, it is the policy of the state of Washington that the cost of regulating charter party carrier and excursion service carriers shall be borne by those entities. For each charter party carrier and excursion service carrier covered by RCW 81.70.350, the commission shall set fees at levels sufficient to fully cover the cost of supervising and regulating such carriers. Pursuant to RCW 43.135.055, during the 2007-2009 fiscal biennium, the commission may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the cost of the program's supervision and regulation.

(3) The general fund—state appropriation for fiscal year 2008 is provided solely to conduct a survey to identify factors preventing the widespread availability and use of broadband technologies. The survey must collect and interpret reliable geographic, demographic, cultural, and telecommunications technology information to identify broadband disparities in the state. The commission shall consult appropriate stakeholders in designing the survey. The names and identification data of any person, household, or business participating in the survey are exempt from public disclosure under chapter 42.56 RCW. The commission shall report its finding to the appropriate legislative committees by December 31, 2007.

***Sec. 147.** 2007 c 522 s 150 (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

General Fund—State Appropriation (FY 2008) . . . . . ((~~$11,439,000~~)) $12,430,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$11,812,000~~)) $13,195,000

General Fund—Federal Appropriation . . . . . ((~~$107,611,000~~)) $129,336,000

General Fund—Private/Local Appropriation $2,000

Enhanced 911 Account—State Appropriation . . . . . ((~~$42,114,000~~)) $42,293,000

Disaster Response Account—State Appropriation . . . . . ((~~$12,852,000~~)) $24,454,000

Disaster Response Account—Federal Appropriation . . . . . ((~~$55,553,000~~)) $86,757,000

Military Department Rent and Lease Account—State Appropriation . . . . . ((~~$374,000~~)) $814,000

Worker and Community Right-to-Know Account—State Appropriation . . . . . ((~~$341,000~~)) $337,000

Nisqually Earthquake Account—State Appropriation $556,000

Nisqually Earthquake Account—Federal Appropriation $1,269,000

TOTAL APPROPRIATION . . . . . ((~~$243,923,000~~)) $311,443,000

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

(1) ((~~$12,924,000~~)) $24,454,000 of the disaster response account—state appropriation and ((~~$55,769,000~~)) $86,757,000 of the disaster response account—federal appropriation may be spent only on disasters declared by the governor and with the approval of the office of financial management. The military department shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2007-2009 biennium based on current revenue and expenditure patterns.

(2) $556,000 of the Nisqually earthquake account—state appropriation and $1,269,000 of the Nisqually earthquake account—federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing earthquake recovery costs, including: (a) Estimates of total costs; (b) incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also submit a report quarterly to the office of

financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2007-2009 biennium based on current revenue and expenditure patterns.

(3) $61,000,000 of the general fund—federal appropriation is provided solely for homeland security, subject to the following conditions:

(a) Any communications equipment purchased by local jurisdictions or state agencies shall be consistent with standards set by the Washington state interoperability executive committee;

(b) This amount shall not be allotted until a spending plan is reviewed by the governor's domestic security advisory group and approved by the office of financial management;

(c) The department shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for the state; incremental changes from the previous estimate, planned and actual homeland security expenditures by the state and local governments with this federal funding; and matching or accompanying state or local expenditures; and

(d) The department shall submit a report by December 1st of each year to the office of financial management and the legislative fiscal committees detailing homeland security revenues and expenditures for the previous fiscal year by county and legislative district.

(4) Within the funds appropriated in this section, the department shall implement Substitute House Bill No. 1507 (uniformed service shared leave).

(5) $1,000,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$1,000,000~~)) $1,750,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the military department to contract with the Washington information network 2-1-1 to operate a statewide 2-1-1 system. The department shall provide the entire amount for 2-1-1 and shall not take any of the funds for administrative purposes.

(6) $200,000 of the enhanced 911 account—state appropriation is provided solely for the department to recommend an appropriate funding mechanism for the implementation of next generation 911. The department shall consult with the utilities and transportation commission, the department of revenue, local governments, and representatives from companies providing telecommunications services in order to complete the report required under this subsection. The department may also consult with other public safety and medical associations in order to complete the study. The department shall submit the report to the finance committee and the technology, energy, and communications committee of the house of representatives, and the ways and means committee and the water, energy, and telecommunications committee of the senate, by December 1, 2008.

***Sec. 147 was partially vetoed. See message at end of chapter.**

Sec. 148. 2007 c 522 s 151 (uncodified) is amended to read as follows:

FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

General Fund—State Appropriation (FY 2008) . . . . . ((~~$3,246,000~~))
$3,247,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$3,353,000~~))
$3,296,000
Department of Personnel Service Account—State
Appropriation. . . . . ((~~$3,315,000~~))
$3,287,000
TOTAL APPROPRIATION . . . . . ((~~$9,914,000~~))
$9,830,000

The appropriations in this section are subject to the following conditions and limitations: $112,000 of the general fund—state appropriation for fiscal year 2008 and $107,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Substitute House Bill No. 2361 (higher education exempt employees). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

Sec. 149. 2007 c 522 s 152 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

General Fund—State Appropriation (FY 2008) . . . . . ((~~$1,087,000~~))
$1,114,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,033,000~~))
$1,755,000
General Fund—Federal Appropriation . . . . . ((~~$1,651,000~~))
$1,641,000
General Fund—Private/Local Appropriation $14,000
TOTAL APPROPRIATION . . . . . ((~~$3,785,000~~))
$4,524,000

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

(1) $30,000 of the general fund—state appropriation for fiscal year 2008 and $30,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Substitute House Bill No. 2115 (heritage barn preservation). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(2) $571,000 of the general fund—state appropriation for fiscal year 2009 and $500,000 of the nonappropriated skeletal human remains assistance account are provided solely for implementation of Engrossed Second Substitute House Bill No. 2624 (human remains). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(3) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to conduct a preliminary assessment to determine the feasibility of seeking federal heritage area designation for Washington state's maritime regions. The department shall establish an advisory committee for the study. The department shall submit a report of the preliminary assessment findings to the appropriate policy and fiscal committees of the legislature and to the governor by January 1, 2010.

Sec. 150. 2007 c 522 s 153 (uncodified) is amended to read as follows:

FOR THE GROWTH MANAGEMENT HEARINGS BOARD

General Fund—State Appropriation (FY 2008) . . . . . ((~~$1,890,000~~))

$1,893,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,942,000~~))
$1,928,000
TOTAL APPROPRIATION . . . . . ((~~$3,832,000~~))
$3,821,000

Sec. 151. 2007 c 522 s 154 (uncodified) is amended to read as follows:

FOR THE STATE CONVENTION AND TRADE CENTER
State Convention and Trade Center Account—State
Appropriation. . . . . ((~~$36,910,000~~))
$44,773,000
State Convention and Trade Center Operating
Account—State Appropriation $53,750,000
TOTAL APPROPRIATION . . . . . ((~~$90,660,000~~))
$98,523,000

PART II
HUMAN SERVICES

Sec. 201. 2007 c 522 s 201 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES. (1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act.

(4) The department is authorized to develop an integrated health care program designed to slow the progression of illness and disability and better manage medicaid expenditures for the aged and disabled population. Under this Washington medicaid integration partnership (WMIP), the department may combine and transfer such medicaid funds appropriated under sections 204, 206, 208, and 209 of this act as may be necessary to finance a unified health care plan

for the WMIP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of ((~~13,000~~)) 6,000 persons, nor expand beyond one county, during the 2007-2009 biennium. The amount of funding assigned to the pilot projects from each program may not exceed the average per capita cost assumed in this act for individuals covered by that program, actuarially adjusted for the health condition of persons enrolled in the pilot project, times the number of clients enrolled in the pilot project. In implementing the WMIP pilot projects, the department may: (a) Withhold from calculations of "available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for individuals enrolled in the pilots; and (b) employ capitation financing and risk-sharing arrangements in collaboration with health care service contractors licensed by the office of the insurance commissioner and qualified to participate in both the medicaid and medicare programs. The department shall conduct an evaluation of the WMIP, measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

(5)(a) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act. However, after May 1, 2008, unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2008 among programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose except as expressly provided in (b) of this subsection.

(b) To the extent that transfers under (a) of this subsection are insufficient to fund actual expenditures in excess of fiscal year 2008 caseload forecasts and utilization assumptions in the medical assistance, long-term care, foster care, adoption support, and child support programs, the department may transfer state moneys that are provided solely for a specified purpose. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any allotment modifications or transfers under this subsection. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

***Sec. 202.** 2007 c 522 s 202 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—CHILDREN AND FAMILY SERVICES PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$313,898,000~~)) $316,353,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$327,462,000~~)) $345,840,000

General Fund—Federal Appropriation . . . . . ((~~$468,668,000~~)) $489,938,000

General Fund—Private/Local Appropriation . . . . . ((~~$500,000~~)) $2,187,000

Domestic Violence Prevention Account—State
Appropriation. $1,000,000
Public Safety and Education Account—State
Appropriation (FY 2008). $3,251,000
Public Safety and Education Account—State
Appropriation (FY 2009). $3,254,000
Violence Reduction and Drug Enforcement Account—State
Appropriation (FY 2008). $2,934,000
Violence Reduction and Drug Enforcement Account—State
Appropriation (FY 2009). $2,934,000
Pension Funding Stabilization Account—State
Appropriation. $2,298,000
TOTAL APPROPRIATION . . . . . ((~~$1,126,199,000~~))
$1,169,989,000

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

(1) $3,063,000 of the general fund—state appropriation for fiscal year 2008 and $3,063,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the category of services titled "intensive family preservation services."

(2) $945,000 of the general fund—state appropriation for fiscal year 2008 and $993,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to seventeen children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(3) $375,000 of the general fund—state appropriation for fiscal year 2008, $375,000 of the general fund—state appropriation for fiscal year 2009, and $322,000 of the general fund—federal appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(4) $125,000 of the general fund—state appropriation for fiscal year 2008 and $125,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a foster parent retention program. This program is directed at foster parents caring for children who act out sexually.

(5) The providers for the 31 HOPE beds shall be paid a ((~~$1,000~~)) $1,020 base payment per bed per month, and reimbursed for the remainder of the bed cost only when the beds are occupied.

(6) Within amounts provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures.

(7) Within amounts appropriated in this section, priority shall be given to proven intervention models, including evidence-based prevention and early intervention programs identified by the Washington state institute for public policy and the department. The department shall include information on the number, type, and outcomes of the evidence-based programs being implemented in its reports on child welfare reform efforts.

(8) $500,000 of the general fund—state appropriation for fiscal year 2008, $500,000 of the general fund—state appropriation for fiscal year 2009, and $429,000 of the general fund—federal appropriation are provided solely to increase services provided through children's advocacy centers.

(9) $50,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a street youth program in Spokane.

(10) $41,000 of the general fund—state appropriation for fiscal year 2008, ((~~$49,000~~)) $37,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$41,000~~)) $34,000 of the general fund—federal appropriation are provided solely for the implementation of Substitute House Bill No. 1472 (child welfare). ((~~If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.~~))

(11) $858,000 of the general fund—state appropriation for fiscal year 2008, $809,000 of the general fund—state appropriation for fiscal year 2009, and $715,000 of the general fund—federal appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5774 (background checks), including sections 6 and 7. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(12) $4,962,000 of the general fund—state appropriation for fiscal year 2008, $4,586,000 of the general fund—state appropriation for fiscal year 2009, and $9,548,000 of the general fund—federal appropriation are provided solely for development and implementation of a statewide automated child welfare information system.

(13) $126,000 of the general fund—state appropriation for fiscal year 2009 and $55,000 of the general fund—federal appropriation are provided solely to implement Substitute Senate Bill No. 5321 (child welfare). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(14) $707,000 of the general fund—state appropriation for fiscal year 2008, $680,000 of the general fund—state appropriation for fiscal year 2009, and $594,000 of the general fund—federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1334 (child welfare proceedings). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(15) $2,237,000 of the general fund—state appropriation for fiscal year 2008, $2,238,000 of the general fund—state appropriation for fiscal year 2009, and $1,918,000 of the general fund—federal appropriation are provided solely for the implementation of Substitute House Bill No. 1333 (child welfare). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(16) $137,000 of the general fund—state appropriation for fiscal year 2008, $137,000 of the general fund—state appropriation for fiscal year 2009, and $118,000 of the general fund—federal appropriation are provided solely for implementation of Substitute House Bill No. 1287 (foster children). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(17) $50,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the department to contract with the Washington state institute for public policy to study evidence-based, cost-effective programs and policies to reduce the likelihood of children entering and remaining in the child welfare system, including both prevention and intervention programs. If the department does not receive $100,000 in matching funds from a private organization for the purpose of conducting this study, the amount provided in this subsection shall lapse. The study shall be completed by April 30, 2008. The department shall cooperate with the institute in facilitating access to data in their administrative systems. The board of the Washington state institute for public policy may adjust the due date for this project as necessary to efficiently manage workload.

(18) $103,000 of the general fund—state appropriation for fiscal year 2008, ((~~$98,000~~)) $407,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$201,000~~)) $48,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed Substitute House Bill No. 1131 (passport to college). This includes funding to develop, implement, and administer a program of educational transition planning for youth in foster care as specified in the bill. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(19) The department shall continue spending levels for continuum of care in region one at the same level allotted during the 2005-2007 biennium.

(20) Within the amounts provided, the department shall develop and implement a two-tiered reimbursement rate schedule for children from birth through twenty-four months of age and children twenty-five months of age through age five served by the medicaid treatment child care program. The department shall work in collaboration with contracted providers of the program to develop the rate schedule, taking into consideration such factors as higher staff level and small group size requirements for each age group. The department shall implement the rate schedule no later than January 1, 2008, and neither reimbursement rate in the two-tiered schedule shall be lower than the reimbursement rate level from the 2007 fiscal year.

(21) $60,000 of the general fund—state appropriation for fiscal year 2008, $20,000 of the general fund—state appropriation for fiscal year 2009, and $35,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed Substitute House Bill No. 1624 (child welfare). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(22) $49,000 of the general fund—state appropriation for fiscal year 2008, $24,000 of the general fund—state appropriation for fiscal year 2009, and $35,000 of the general fund—federal appropriation are provided solely for the implementation of chapter 384, Laws of 2007.

(23) The department shall work with the exclusive bargaining representative for the children's administration social workers to prioritize social worker tasks and devise methods by which to alleviate from the social workers' workload lower priority tasks. Discussions on methods shall include the use of contracting services and home support specialists. The department and the bargaining representative shall jointly report their efforts to the appropriate committees of the legislature by submitting a progress report no later than July 1, 2008, and a final report by November 15, 2008.

(24) $10,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the department to contract with the largest nonprofit organization in the state conducting education and outreach on RCW 13.34.360, the safety of newborn children law.

(25) $616,000 of the general fund—state appropriation for fiscal year 2009 and $184,000 of the general fund—federal appropriation are provided solely to contract with medical professionals for comprehensive safety assessments of high-risk families. The safety assessments will use validated assessment tools to guide intervention decisions through the identification of additional safety and risk factors. $400,000 of this amount is for comprehensive safety assessments for families receiving in-home child protective services or family voluntary services. $400,000 of this amount is for comprehensive safety assessments of families with an infant age birth to fifteen days where the infant was, at birth, diagnosed as substance exposed and the department received an intake referral related to the infant due to the substance exposure.

(26) $500,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a two-year pilot program in Clark county to develop a screening tool to identify reactive attachment disorder in children and provide them with appropriate and recommended intervention services. The pilot shall be open to children receiving services in Clark county from the department's children and family services division. The division shall contract with a provider currently providing services in Clark county to deliver a comprehensive approach to the assessment, diagnosis, and treatment of reactive attachment disorder. The goal of the pilot project is to develop an intake tool and evidence-based intervention services to permit early recognition and treatment of children with reactive attachment disorder served by the department's children and family services division. If the costs of the pilot exceeds the appropriation, the department shall adjust the eligibility of children participating in the pilot to conform to the appropriation and shall promptly notify the fiscal committees of the legislature. It is the intent of the legislature to provide additional resources in fiscal year 2010 for the second year of the pilot project.

(27) $1,100,000 of the general fund—state appropriation for fiscal year 2009 and $347,000 of the general fund—federal appropriation are provided solely for the hiring of twenty home support specialists, and respective supervisory and support staff, to be concentrated in counties experiencing an increase in dependency filings above the state average. Starting July 1, 2008,

the home support specialists shall be allocated to the following field offices: Three to Bellingham, two to Shelton, eight to Spokane, two to Aberdeen, and five to Tacoma. It is the intent of the legislature for these specialists to be placed in addition to current staff and staff being hired under the department's phase-in of social workers provided in the 2007-09 biennial budget. The department shall not use the staff provided in this subsection to supplant existing staff or staff to be phased in according to the 2007-09 biennial budget. The department shall track the following data monthly within each of the field offices receiving the additional support specialists: (a) Number of case-carrying social workers; (b) number of case-carrying home support specialists; (c) date of hires of social workers and home support specialists; (d) number of families receiving services, where no petition for dependency, at risk youth, child in need of services, or truancy has been filed; and (e) number of families receiving services where a dependency petition has been filed. For a minimum of 10 days in February 2009, the department shall use the workload study tool to measure the social worker workload in these five field offices and compare the results to the February 2007 data. The department shall provide the data and its findings to the appropriate committees of the legislature, with a preliminary report by December 15, 2008, and a final report by June 15, 2009.

(28) $42,000 of the general fund—state appropriation for fiscal year 2009 and $29,000 of the general fund—federal appropriation are provided solely for the department to implement Second Substitute Senate Bill No. 6206 (child fatality). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(29) $857,000 of the general fund—state appropriation for fiscal year 2009 and $140,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed Second Substitute House Bill No. 3145 (foster parent licensing). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(30) $415,000 of the general fund—state appropriation for fiscal year 2008, $469,000 of the general fund—state appropriation for fiscal year 2009, and $264,000 of the general fund—federal appropriation are provided solely for the hiring of staff to expedite the phase-in of the state's policy of a private and individual face-to-face visit each month with children in out-of-home care and in-home dependencies and their caregivers.

(31) $109,000 of the general fund—state appropriation for fiscal year 2009 and $35,000 of the general fund—federal appropriation are provided solely to implement sections 2 and 3 of Engrossed Second Substitute House Bill No. 3205 (child long-term well-being). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(32) The appropriations in this section provide specific funds to implement Engrossed Substitute Senate Bill No. 6792 (dependency matters).

(33) $70,000 of the general fund—state appropriation for fiscal year 2009 and $38,000 of the general fund—federal appropriation are provided solely for implementation of Substitute House Bill No. 2679 (students in foster care). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(34) $585,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for additional contracted educational advocacy coordinators to provide educational assistance to children in foster care.

(35) $812,000 of the general fund—state appropriation for fiscal year 2009 and $256,000 of the general fund—federal appropriation are provided solely for the department to hire additional staff to perform child health education and tracking screens.

(36) $581,000 of the general fund—state appropriation for fiscal year 2009 and $319,000 of the general fund—federal appropriation are provided solely for a multidimensional treatment foster care program to recruit foster homes to serve children with high behavioral and emotional needs.

(37) $1,829,000 of the general fund—state appropriation for fiscal year 2009 and $578,000 of the general fund—federal appropriation are provided solely for the department to contract with nonprofit organizations to facilitate twice-monthly visits between siblings living apart from each other in out-of-home care.

***Sec. 202 was partially vetoed. See message at end of chapter.**

***Sec. 203.** 2007 c 522 s 203 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—JUVENILE REHABILITATION PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$87,795,000~~)) $87,822,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$91,182,000~~)) $88,715,000

General Fund—Federal Appropriation . . . . . ((~~$5,799,000~~)) $5,662,000

General Fund—Private/Local Appropriation . . . . . ((~~$1,098,000~~)) $1,898,000

Reinvesting in Youth—State Appropriation $1,414,000

Washington Auto Theft Prevention Authority Account—State Appropriation $171,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2008) . . . . . ((~~$21,458,000~~)) $21,975,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2009) . . . . . ((~~$21,568,000~~)) $22,078,000

Juvenile Accountability Incentive Account—Federal Appropriation $2,510,000

Pension Funding Stabilization Account—State Appropriation $2,200,000

TOTAL APPROPRIATION . . . . . ((~~$235,195,000~~)) $234,445,000

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

(1) $353,000 of the violence reduction and drug enforcement account appropriation for fiscal year 2008 and $353,000 of the violence reduction and drug enforcement account appropriation for fiscal year 2009 are provided solely

for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) $3,078,000 of the violence reduction and drug enforcement account appropriation and $500,000 of the general fund—state appropriation for fiscal year 2008 and $3,078,000 of the violence reduction and drug enforcement account appropriation and $500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) $1,030,000 of the general fund—state appropriation and $2,686,000 of the violence reduction and drug enforcement account appropriation for fiscal year 2008 and $1,030,000 of the general fund—state appropriation and $2,686,000 of the violence reduction and drug enforcement account appropriation for fiscal year 2009 are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) $1,506,000 of the violence reduction and drug enforcement account appropriation for fiscal year 2008 and $1,506,000 of the violence reduction and drug enforcement account appropriation for fiscal year 2009 are provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) $2,669,000 of the general fund—state appropriation for fiscal year 2008 and $3,066,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for grants to county juvenile courts for the following programs identified by the Washington state institute for public policy (institute) in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Functional family therapy, multi-systemic therapy, aggression replacement training and interagency coordination programs or other programs with a positive benefit-cost finding in the institute's report. County juvenile courts shall apply to the juvenile rehabilitation administration for funding for program-specific participation and the administration shall provide grants to the courts consistent with the per-participant treatment costs identified by the institute.

(6) $1,287,000 of the general fund—state appropriation for fiscal year 2008 and $1,287,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for expansion of the following treatments and therapies in

juvenile rehabilitation administration programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Multidimensional treatment foster care, family integrated transitions and aggression replacement training. The administration may concentrate delivery of these treatments and therapies at a limited number of programs to deliver the treatments in a cost-effective manner.

(7) The juvenile rehabilitation administration shall provide a block grant, rather than categorical funding, of consolidated juvenile services funds, community juvenile accountability act grants, the chemically dependent disposition alternative, and the special sex offender disposition to county juvenile courts, or groups of courts, including the Pierce county juvenile court. The juvenile rehabilitation administration and the family policy council shall jointly write criteria for awarding and administering block grants to county juvenile courts. In developing the criteria, the juvenile rehabilitation administration and the family policy council shall seek the advice of the Washington state institute for public policy. The criteria shall address, but not be limited to:

(a) The selection of courts for participation in the block grant;

(b) The types of evidence-based programs and practices to which the funds will be applied. The evidence-based programs and practices shall either be consistent with those cost-beneficial options identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates," or be new approaches that have the potential to demonstrate positive returns for the taxpayer; and

(c) The protocols for participating courts to collect information on the effectiveness of programs funded under the block grant, including: (i) Developing intermediate client outcomes based on the risk assessment tool currently used by juvenile courts and in coordination with the juvenile rehabilitation administration; (ii) reporting treatment outcomes including a process evaluation to the juvenile rehabilitation administration and the family policy council by June 20, 2008, and an outcome evaluation of recidivism and benefit-cost results submitted within eighteen months of the initiation of the treatment, when follow-up data are available. The courts shall develop these evaluations in consultation with the juvenile rehabilitation administration, the family policy council, and the Washington state institute for public policy; and (iii) documenting the process for managing block grant funds on a quarterly basis and provide this report to the juvenile rehabilitation administration and the family policy council.

(8) $73,000 of the Washington auto theft prevention authority account—state appropriation for fiscal year 2008 and $98,000 of the Washington auto theft prevention authority account—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Third Substitute House Bill No. 1001 (auto theft). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(9) $165,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to the juvenile rehabilitation administration for the purpose of establishing a single county pilot program to promote participation in

offender programs for juveniles under the jurisdiction of a county juvenile court or the department, and their families. The pilot program shall provide incentives for families for consenting to, and participating in good faith, in a program recommended by the department as appropriate. The pilot location as well as the structure, amount, and disbursement of incentives shall be determined by the department in consultation with the University of Washington school of medicine's department of psychiatry and behavioral sciences division of public behavioral health and justice and the evidence-based program model developers. To be eligible, a county must have imposed the sales and use tax authorized by RCW 82.14.460. The pilot program shall be limited to evidence-based programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates" which have been identified as having a positive benefit-cost ratio. The pilot program shall be operational by December 1, 2008. The department, in cooperation with the University of Washington, shall evaluate the results of the pilot program, including any reduction in recidivism for a juvenile participating in the pilot program and shall provide a preliminary report to the governor and the legislature on the results of the pilot program by December 1, 2010, and a final report by December 1, 2012.

***Sec. 203 was partially vetoed. See message at end of chapter.**

***Sec. 204.** 2007 c 522 s 204 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH PROGRAM

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$302,674,000~~))
$305,747,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$312,997,000~~))
$328,783,000

General Fund—Federal Appropriation . . . . . ((~~$380,003,000~~))
$382,032,000

General Fund—Private/Local Appropriation . . . . . ((~~$11,948,000~~))
$16,157,000

TOTAL APPROPRIATION . . . . . ((~~$1,007,622,000~~))
$1,032,719,000

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

(a) $103,989,000 of the general fund—state appropriation for fiscal year 2008 and $104,080,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for persons and services not covered by the medicaid program. These funds shall be distributed proportionally to each regional support network's percentage of the total state population.

(b) $16,900,000 of the general fund—state appropriation for fiscal year 2008 and $16,900,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department and regional support networks to contract for development and initial implementation of high-intensity program for active community treatment (PACT) teams, and other proven program

approaches that the department concurs will enable the regional support network to achieve significant reductions during fiscal year 2008 and thereafter in the number of beds the regional support network would otherwise need to use at the state hospitals.

(c) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 222 per day throughout fiscal year 2008. Beginning January 1, 2009, the number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 192 per day. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 777 per day during the first and second quarters of fiscal year 2008, and 677 per day from January 2008 through August 2008. Beginning September 2008, the number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 647 per day until May 2009, at which time the bed allocation shall be 617 beds per day. Beginning January 2008, beds in the program for adaptive living skills (PALS) are not included in the preceding bed allocations. Beginning that month, the department shall separately charge regional support networks for persons served in the PALS program ((~~and for use of state hospital beds for short-term commitments~~)).

(d) From the general fund—state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund—state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(e) ((~~Within amounts appropriated in this subsection, the department shall contract with the Clark county regional support network for development and operation of a project demonstrating collaborative methods for providing intensive mental health services in the school setting for severely emotionally disturbed children who are medicaid eligible. Project services shall be delivered by teachers and teaching assistants who qualify as, or who are under the supervision of, mental health professionals meeting the requirements of chapter 275-57 WAC. The department shall increase medicaid payments to the regional support network by the amount necessary to cover the necessary and allowable costs of the demonstration, not to exceed the upper payment limit specified for the regional support network in the department's medicaid waiver agreement with the federal government after meeting all other medicaid spending requirements assumed in this subsection. The regional support network shall provide the required nonfederal share of the increased medicaid payment provided for operation of this project.~~

(~~f~~)) At least $902,000 of the federal block grant funding appropriated in this subsection shall be used for the continued operation of the mentally ill offender pilot program.

((~~(g)~~)) (f) $5,000,000 of the general fund—state appropriation for fiscal year 2008 and $5,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for mental health services for mentally ill offenders while confined in a county or city jail and for facilitating access to programs that offer mental health services upon release from confinement. The department is authorized to transfer up to $418,000 of these amounts each fiscal year to the economic services program for purposes of facilitating prompt access after their

release from confinement to medical and income assistance services for which defendants and offenders may be eligible.

((~~(h)~~)) (g) $1,500,000 of the general fund—state appropriation for fiscal year 2008 and $1,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for grants for innovative mental health service delivery projects. Such projects may include, but are not limited to, clubhouse programs and projects for integrated health care and behavioral health services for general assistance recipients. These amounts shall supplement, and not supplant, local or other funding currently being used for activities funded under the projects authorized in this subsection.

((~~(i)~~)) (h) The department is authorized to continue to expend federal block grant funds and special purpose federal grants through direct contracts, rather than through contracts with regional support networks, and to allocate such funds through such formulas as it shall adopt.

((~~(j)~~)) (i) The department is authorized to continue to contract directly, rather than through contracts with regional support networks, for children's long-term inpatient facility services.

((~~(k)~~)) (j) $2,250,000 of the general fund—state appropriation for fiscal year 2008, $2,250,000 of the general fund—state appropriation for fiscal year 2009, and $4,500,000 of the general fund—federal appropriation are provided solely for the continued operation of community residential and support services for persons who are older adults or who have co-occurring medical and behavioral disorders and who have been discharged or diverted from a state psychiatric hospital. These funds shall be used to serve individuals whose treatment needs constitute substantial barriers to community placement, who no longer require active psychiatric treatment at an inpatient hospital level of care, and who no longer meet the criteria for inpatient involuntary commitment. Coordination of these services will be done in partnership between the mental health program and the aging and disability services administration.

((~~(l)~~)) (k) $750,000 of the general fund—state appropriation for fiscal year 2008 and $750,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who were discharged from the state hospitals as part of the expanding community services initiative. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

((~~(m) $2,979,000~~)) (l) $2,981,000 of the general fund—state appropriation for fiscal year 2008, ((~~$3,249,000~~)) $3,248,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$2,040,000~~)) $2,016,000 of the general fund—federal appropriation are provided solely to modify the department's proposed new payment rates for medicaid inpatient psychiatric services. Under the department's proposed rate system, effective August 1, 2007, each hospital's inpatient psychiatric payment rate would have been set at a percentage of that hospital's estimated per diem cost for psychiatric inpatient care during the most recent rebasing year. Within the amount provided in this subsection (1)(m), beginning August 1, 2007, each hospital's inpatient psychiatric payment rate shall instead be set at the greater of a percentage of: (i) The hospital's estimated per diem cost for psychiatric inpatient care during the most recent rebasing year;

or (ii) the statewide average per diem cost for psychiatric inpatient care during the most recent rebasing year, adjusted for regional wage differences and for differences in medical education costs. At least thirty days prior to implementing adjustments to regional support network medicaid capitation rates and nonmedicaid allocations to account for changes in psychiatric inpatient payment rates, the department shall report on the proposed adjustments to the appropriations committee of the house of representatives and the ways and means committee of the senate.

((~~(n)~~)) (m) $6,267,000 of the general fund—state appropriation for fiscal year 2008 and $6,462,000 of the general fund—((~~federal~~)) state appropriation for fiscal year 2009 are provided solely to increase nonmedicaid psychiatric inpatient payment rates over fiscal year 2005 levels. It is expected that nonmedicaid rates will be set at approximately 85 percent of each hospital's medicaid psychiatric inpatient rate. At least thirty days prior to implementing adjustments to regional support network medicaid capitation rates and nonmedicaid allocations to account for changes in psychiatric inpatient payment rates, the department shall report on the proposed adjustments to the appropriations committee of the house of representatives and the ways and means committee of the senate.

((~~(o) $7,363,000~~)) (n) $7,396,000 of the general fund—state appropriation for fiscal year 2008, ((~~$15,028,000~~)) $15,146,000 of the general fund—state appropriation for fiscal year 2009, and $13,927,000 of the general fund—federal appropriation are provided solely to increase regional support network medicaid capitation rates, or fee-for-service rates paid instead of those capitation rates, and nonmedicaid allocations by 3.0 percent effective July 1, 2007, and by an additional 3.0 percent effective July 1, 2008. The federal portion of these rate increases is contingent upon federal approval. (i) The legislature intends and expects that regional support networks and community mental health agencies will use at least 67 percent of the amounts provided in this subsection (1)(o) to increase compensation for direct care personnel above and beyond usual and customary wage increases. To this end, regional support networks shall report to the department by October 15, 2007, on planned uses of the rate increases within their network area. The report shall describe the direct care job classifications to which increases are to be provided; the number of full-time equivalent personnel employed in each classification; the annualized dollar and percentage increases to be provided each classification; the annualized dollar value of the direct care compensation increases provided, in total and as a percentage of the total rate increase; and the number of personnel in each job classification covered by a collective bargaining agreement. The department shall summarize and analyze the regional plans, and report findings, options, and recommendations to the legislature by December 1, 2007. (ii) Regional support networks shall maintain documentation of how the rate increases have been applied. Such documentation shall be subject to audit by the department. (iii) For purposes of this subsection (1)(o), "direct care staff" means persons employed by community mental health agencies whose primary responsibility is providing direct treatment and support to people with mental illness, or whose primary responsibility is providing direct support to such staff in areas such as client scheduling, client intake, client reception, client records-keeping, and facilities maintenance. In agencies that provide both mental health and chemical

dependency services, nonmedicaid funds may also be used for compensation increases for direct care staff whose primary responsibility is direct care and treatment for people with chemical dependency problems.

(((~~(p)~~))) (o) $2,021,000 of the general fund—state appropriation for fiscal year 2008 and $1,683,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute House Bill No. 1456 (mental health professionals). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse. For purposes of organizing and delivering training as required by the bill, the department may retain up to fifteen percent of the amount appropriated for fiscal year 2008, and up to ten percent of the amount appropriated for fiscal year 2009. The remainders shall be distributed to regional support networks proportional to each network's percentage of the total state population.

(p) $135,000 of the general fund—state appropriation for fiscal year 2008, $3,031,000 of the general fund—state appropriation for fiscal year 2009, and $1,289,000 of the general fund—private/local appropriation are provided solely to enable the department to contract with Pierce county human services for the provision of community mental health services to include crisis triage, evaluation and treatment, and mobile crisis services. The legislature intends this to be one-time funding while a replacement regional support network is being secured. The department is authorized to reserve $402,000 general fund—state and $201,000 general fund—local of these amounts for reasonable costs incurred by Pierce county for the provision of mental health crisis and related services that exceed reimbursement levels contracted by the department. In order to receive these funds, Pierce county must demonstrate to the department that the total cost of mental health services provided by the county in accordance with formal agreements has exceeded the revenues received from the department and third-party payers for these services. The department shall determine the documentation that is required.

(q) $504,000 of the general fund—state appropriation for fiscal year 2008 and $1,529,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to reimburse Pierce and Spokane counties for the cost of conducting 180-day commitment hearings at the state psychiatric hospitals.

(r) $750,000 of the general fund—state appropriation for fiscal year 2008 and $1,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Spokane regional support network to implement a comprehensive plan for reducing its utilization of eastern state hospital. Key elements of the plan, which shall be developed and implemented in consultation with and with the assistance of the department, may include but shall not be limited to development of additional crisis triage, crisis stabilization, and evaluation and treatment beds; provision of housing assistance for high-utilizers of hospital and jail services who are at risk of homelessness; implementation of an intensive outpatient treatment team for persons with co-occurring disorders and other special needs; and delivery of respite care to assist elderly individuals avoid or return home after hospitalization.

(s) $6,250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for regional support networks to increase and improve delivery of nonmedicaid services. These funds shall be distributed to regional

support networks, other than Spokane and Pierce county, proportional to each network's share of total population among those networks.

(t) $215,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to assist nongovernmental mental health agencies in Pierce county with start-up and other extraordinary administrative costs required by the conversion from a capitated to a unit fee-based service delivery and billing system.

(u) $15,000 of the general fund—state appropriation for fiscal year 2008 and $235,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for one-time grants for emergent financial relief for clubhouses. In order to receive these funds, the clubhouse must be able to demonstrate need to the department. The department shall develop and implement a simplified application form. The clubhouses shall provide financial documentation to the department as requested to support their application. The amounts and quantity of the individual grants shall be at the discretion of the department.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$142,545,000~~))
$138,340,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$139,286,000~~))
$131,973,000
General Fund—Federal Appropriation . . . . . ((~~$146,401,000~~))
$145,602,000
General Fund—Private/Local Appropriation . . . . . ((~~$57,064,000~~))
$66,302,000
Pension Funding Stabilization Account—State
Appropriation. $7,058,000
TOTAL APPROPRIATION . . . . . ((~~$492,354,000~~))
$489,275,000

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

(a) The state ((~~mental~~)) psychiatric hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) $45,000 of the general fund—state appropriation for fiscal year 2008 and $45,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for payment to the city of Lakewood for police services provided by the city at western state hospital and adjacent areas.

(c) $18,575,000 of the general fund—state appropriation for fiscal year 2008 and $9,675,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to operate on a temporary basis five additional adult civil commitment wards at the state psychiatric hospitals. The legislature intends for these wards to close, on a phased basis, during the 2007-09 biennium as a result of targeted investments in community services for persons who would otherwise need care in the hospitals.

(d) $125,000 of the general fund—state appropriation for fiscal year 2008 and $125,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for safety training and for protective equipment for staff at

eastern and western state hospitals. Protective equipment shall include shields, helmets, gloves, and body protection.

(e) $304,000 of the general fund—state appropriation for fiscal year 2008 and $231,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a community partnership between western state hospital and the city of Lakewood to support community policing efforts in the Lakewood community surrounding western state hospital. The amounts provided in this subsection (2)(e) are for the salaries, benefits, supplies, and equipment for one full-time investigator, one full-time police officer, and one full-time community service officer at the city of Lakewood.

(f) $133,000 of the general fund—state appropriation for fiscal year 2008 and $2,145,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to pilot a direct care nurse staffing plan for two high incident wards at eastern state hospital and four high incident wards at western state hospital. The pilot provides funding to fully staff registered nurses, licensed practical nurses, and mental health technicians in accordance with the state psychiatric hospitals direct care staffing review and recommendations. The department shall have the authority to fill the positions with any mix of these direct care nursing staff so long as a good faith effort is made to first hire and recruit positions in accordance with the direct care nurse staffing plan. The department shall monitor outcomes for improved patient and staff safety and provide a written report to the legislature by October 1, 2009.

(g) $617,000 of the general fund—state appropriation for fiscal year 2008 and $334,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to cover additional operating costs related to the October 11, 2007, laundry fire at western state hospital.

(3) SPECIAL PROJECTS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$1,892,000~~)) $1,917,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,192,000~~)) $2,319,000

General Fund—Federal Appropriation . . . . . ((~~$3,195,000~~)) $3,276,000

TOTAL APPROPRIATION . . . . . ((~~$7,279,000~~)) $7,512,000

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

(a) $877,000 of the general fund—state appropriation for fiscal year 2008, $1,189,000 of the general fund—state appropriation for fiscal year 2009, and $140,000 of the general fund—federal appropriation are provided solely for implementation of sections 4, 7, 10, and other provisions of Second Substitute House Bill No. 1088 (children's mental health). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse. Funds are also appropriated in sections 207 and 209 of this act for implementation of 5, 8, and 11 of Second Substitute House Bill No. 1088.

(b) $25,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Washington institute for mental illness research and

training to study whether and the extent to which there is a greater concentration of people with severe and persistent mental illness in counties proximate to state psychiatric hospitals. The institute shall report its findings to the department and the appropriate fiscal and policy committees of the legislature by October 30, 2008. To the extent indicated, the department and the regional support networks shall incorporate the results of the study into revisions of the formula used to allocate state hospital beds among the regional support networks.

(c) $80,000 of the general fund—state appropriation for fiscal year 2009 and $80,000 of the general fund—federal appropriation are provided solely as one-time funding to make available a mental health train the trainer first aid course consisting of twelve hours of instruction based upon a program created by the department of psychiatry, University of Melbourne in Australia. The course will provide training to members of the public related to: (i) Giving appropriate initial help and support to a person suffering from a mental disorder and responding to mental health crisis situations; and (ii) depression, anxiety disorders, psychosis, and substance use disorder, including recognizing symptoms, possible causes or risk factors, and evidenced-based treatment options. Participants in the first aid course will train others to provide the training.

(4) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2008) $4,966,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$5,060,000~~))
$5,177,000
General Fund—Federal Appropriation . . . . . ((~~$7,604,000~~))
$7,557,000
TOTAL APPROPRIATION . . . . . ((~~$17,630,000~~))
$17,700,000

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

(a) $125,000 of the general fund—state appropriation for fiscal year 2008, $125,000 of the general fund—state appropriation for fiscal year 2009, and $164,000 of the general fund—federal appropriation are provided solely for the institute for public policy to continue the longitudinal analysis directed in chapter 334, Laws of 2001 (mental health performance audit), to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders), and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

(b) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to (i) implement those recommendations from the 2006 joint stakeholder paperwork reduction project that are permissible within federal and state law; and (ii) conduct a thorough review of community mental health paperwork procedures and requirements to identify opportunities for standardization and improved efficiency. The department shall report progress on these efforts to the appropriate policy and fiscal committees of the legislature by January 15, 2009.

(c) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the department to contract with a facilitator to coordinate a review and make recommendations on:

(i) Ward sizes at eastern and western state hospitals and patient case mix by ward;

(ii) Discharge practices for state hospitals to include the child and study treatment center; and

(iii) Community placements to include placements for adults and children.

By October 15, 2008, the department shall provide to the legislature recommendations for system improvement to include a cost/benefit analysis. The department shall include representation from regional support networks in the review and development of recommendations for discharge practices and community placements.

***Sec. 204 was partially vetoed. See message at end of chapter.**

Sec. 205. 2007 c 522 s 205 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM

(1) COMMUNITY SERVICES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$346,600,000~~)) $348,327,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$373,776,000~~)) $380,811,000

General Fund—Federal Appropriation . . . . . ((~~$633,258,000~~)) $636,595,000

Health Services Account—State Appropriation (FY 2008) $452,000

Health Services Account—State Appropriation (FY 2009) $452,000

TOTAL APPROPRIATION . . . . . ((~~$1,354,538,000~~)) $1,366,637,000

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

(a) The entire health services account appropriation, $615,000 of the general fund—state appropriation for fiscal year 2008, $892,000 of the general fund—state appropriation for fiscal year 2009, and $2,546,011 of the general fund—federal appropriation are provided solely for health care benefits for agency home care workers who are employed through state contracts for at least twenty hours a week. The state contribution to the cost of health care benefits per participating worker per month shall be no greater than $532.00 in fiscal year 2008 and $585.00 in fiscal year 2009.

(b) Individuals receiving family support or high school transition payments as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(c) $4,903,000 of the general fund—state appropriation for fiscal year 2008, $9,295,000 of the general fund—state appropriation for fiscal year 2009, and $15,016,000 of the general fund—federal appropriation are provided solely for community residential and support services. Funding in this subsection shall be prioritized for (i) residents of residential habilitation centers who are able to be

adequately cared for in community settings and who choose to live in those community settings; (ii) clients without residential services who are at immediate risk of institutionalization or in crisis; (iii) children who are at risk of institutionalization or who are aging out of other state services; and (iv) current home and community-based waiver program clients who have been assessed as having an immediate need for increased services. First priority shall be given to children who are at risk of institutionalization. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed $300. In order to maximize the number of clients served and ensure the cost-effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds, provided the total projected carry-forward expenditures do not exceed the amounts estimated. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.

(d) ((~~$2,799,000~~)) $2,399,000 of the general fund—state appropriation for fiscal year 2008, $5,961,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$9,268,000~~)) $8,849,000 of the general fund—federal appropriation are provided solely for expanded community services for persons with developmental disabilities who also have community protection issues. Funding in this subsection shall be prioritized for (i) clients being diverted or discharged from the state psychiatric hospitals; (ii) clients participating in the dangerous mentally ill offender program; (iii) clients participating in the community protection program; and (iv) mental health crisis diversion outplacements. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed $349 in fiscal year 2008 and $356 in fiscal year 2009. In order to maximize the number of clients served and ensure the cost-effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds if the total projected carry-forward expenditures do not exceed the amounts estimated. The department shall implement the four new waiver programs such that decisions about enrollment levels and the amount, duration, and scope of services maintain expenditures within appropriations. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.

(e) ((~~$13,598,000~~)) $13,198,000 of the general fund—state appropriation for fiscal year 2008, $16,354,000 of the general fund—state appropriation for fiscal year 2009, and $8,579,000 of the general fund—federal appropriation are provided solely for family support programs for individuals with developmental disabilities. Of the amounts provided in this subsection (e), ((~~$1,096,000~~)) $696,000 of the general fund—state appropriation for fiscal year 2008 and

$3,852,000 of the general fund—state appropriation for fiscal year 2009 are for state-only services for individuals with developmental disabilities, as described in Second Substitute Senate Bill No. 5467 (developmental disabilities). By January 1, 2008, and by November 1, 2008, the department shall provide a status report to the appropriate policy and fiscal committees of the legislature on the individual and family services program for people with developmental disabilities, which shall include the following information: The number of applicants for funding; the total number of awards; the number and amount of both annual and one-time awards, broken down by household income levels; and the purpose of the awards.

(f) ((~~$1,577,000~~)) $1,692,000 of the general fund—state appropriation for fiscal year 2008, ((~~$3,480,000~~)) $3,645,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$2,105,000~~)) $2,397,000 of the general fund—federal appropriation are provided solely for employment and day services. Priority consideration for this new funding shall be young adults with developmental disabilities living with their family who need employment opportunities and assistance after high school graduation. Services shall be provided for both waiver and nonwaiver clients. The legislature finds that some waiver clients are not receiving employment services that are authorized under their waivers. Within the amounts appropriated in this section, waiver clients must receive services as authorized by their waiver, such as pathway to employment, while waiting for paid employment to be developed. The department shall work with the counties to establish a consistent proposed policy for minimum direct service hours for clients, minimum hours of support, time frames for seeking paid employment, and services provided under pathway to employment while paid employment is sought. The department shall report to the office of financial management and the appropriate committees of the legislature on this proposal by November 1, 2008, including estimated fiscal impacts and an option for making the policy budget neutral for the current level of clients served. In order to maximize the number of clients served, the department may serve additional nonwaiver clients with unspent funds for waiver clients, provided the total projected carry-forward expenditures do not exceed the amounts estimated.

(g) $160,000 of the general fund—state appropriation for fiscal year 2008 and $140,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Second Substitute Senate Bill No. 5467 (developmental disabilities). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(h) ((~~The department shall collect data from the counties related to employment services. This data shall include, but not necessarily be limited to, information pertaining to: (i) The average length of time clients utilize job coaching services, (ii) the percentage of clients utilizing job coaching services from zero to three months, four to six months, seven to nine months, ten to twelve months, and twelve months or more, (iii) within the monthly grouping, the percentage of clients utilizing job coaching services from zero to five hours per week, five to ten hours per week, ten to twenty hours per week, and twenty or more hours per week. This data shall be provided to the appropriate policy committees of the legislature by December 1, 2007.~~))

(i) Amounts appropriated in this subsection are sufficient to increase provider payment rates by 6.0 percent for boarding homes, effective July 1, 2007, ((~~and by an additional 2.0 percent, effective July 1, 2008, for boarding homes,~~)) including those currently receiving exceptional care rates; and by 3.2 percent, effective July 1, 2007, ((~~and by an additional 2.0 percent, effective July 1, 2008,~~)) for adult family homes, including those currently receiving exceptional care rates.

(ii) The department shall implement phase one of full implementation of a seventeen CARE level payment system for community residential providers. Amounts appropriated in this section are sufficient to increase adult family home provider payment rates on average, effective July 1, 2008, including those currently receiving exceptional care rates, and to adjust adult family home rates for the first phase of a seventeen CARE level payment system. Effective July 1, 2008, the provider payment rate allocation for boarding homes contracted as assisted living shall be the provider's June 30, 2008, payment rate allocation, and the provider payment rate for boarding homes contracted as ARCs and EARCs shall be adjusted to reflect phase one of a seventeen CARE level payment system. This will be in effect until such time as the rates are consistent between adult family homes and boarding homes for delivery of the same patient care levels.

(iii) Amounts provided in this section and in section 206 of this act are sufficient to assist adult family home providers with the cost of paying liability insurance.

(i) $921,000 of the general fund—state appropriation for fiscal year 2009 and $963,000 of the general fund—federal appropriation are provided solely for the development and implementation of a federal home and community-based care waiver to provide intensive behavior support services to up to one hundred children with developmental disabilities who have intense behaviors, and their families.

(i) To receive services under the waiver, the child must have a developmental disability and: (A) Meet an acuity measure, as determined by the department, indicating that the child is at high risk of needing an out-of-home placement; (B) be eligible for developmental disabilities services and a home and community-based care waiver program; (C) reside in his or her family home or temporarily in an out-of-home placement with a plan to return home; and (D) have family that demonstrates the willingness to participate in the services offered through the waiver, and is not subject to a pending child protective services referral.

(ii) The department shall authorize, contract for, and evaluate the provision of intensive in-home services that support the ability of the child to remain at home with their parents or relatives. Intensive behavior support services under the waiver shall be provided directly or by contract, and may include, but are not limited to: (A) Behavior consultation and management, therapies and respite care; (B) minor home or motor vehicle modifications and transportation; (C) specialized nutrition and clothing; (D) training of families and other individuals working with the child; and (E) inclusion in community activities.

(j) $1,000,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the purpose of settling all claims in the *Washington Federation of State Employees, et. al v. State of Washington,* Thurston County

Superior Court Cause No. 05-2-02422-4. The expenditure of this appropriation is contingent on the release of all claims in this case, and total settlement costs shall not exceed the appropriation in this subsection (j). If settlement is not executed by June 30, 2008, the appropriation in this subsection (j) shall lapse.

(k) Within the amounts appropriated in this section, the department shall review current infant-toddler early intervention services statewide and report to the office of financial management by November 1, 2008, and the appropriate committees of the legislature on a recommended consistent funding approach per child for the 2009-11 biennium, recognizing the new level of funding anticipated by school district participation. The recommendations must also include a budget neutral option for the current level of clients served.

(l) $325,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for state-only employment services for young adults with developmental disabilities who need employment opportunities and assistance after high school graduation.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$78,765,000~~))
$80,469,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$80,873,000~~))
$80,668,000
General Fund—Federal Appropriation . . . . . ((~~$171,836,000~~))
$172,332,000
General Fund—Private/Local Appropriation . . . . . ((~~$21,613,000~~))
$22,203,000
Pension Funding Stabilization Account—State
Appropriation. $5,614,000
TOTAL APPROPRIATION . . . . . ((~~$358,701,000~~))
$361,286,000

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

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

(b) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for services provided to community clients provided by licensed professionals at the state rehabilitation centers. The division shall submit claims for reimbursement for services provided to clients living in the community to medical assistance or third-party health care coverage, as appropriate, and shall implement a system for billing clients without coverage.

(c) $642,000 of the general fund—state appropriation for fiscal year 2008 and $721,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to fulfill its contracts with the school districts under chapter 28A.190 RCW to provide transportation, building space, and other support services as are reasonably necessary to support the educational programs of students living in residential habilitation centers.

(3) PROGRAM SUPPORT
General Fund—State Appropriation (FY 2008) . . . . . ((~~$2,273,000~~))
$2,262,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,377,000~~))
$2,328,000
General Fund—Federal Appropriation . . . . . ((~~$2,821,000~~))
$2,812,000
TOTAL APPROPRIATION . . . . . ((~~$7,471,000~~))
$7,402,000

The appropriations in this subsection are subject to the following conditions and limitations: As part of the needs assessment instrument, the department shall collect data on family income for minor children with developmental disabilities and all individuals who are receiving state-only funded services. The department shall ensure that this information is collected as part of the client assessment process.

(4) SPECIAL PROJECTS
General Fund—State Appropriation (FY 2008) $17,000
General Fund—State Appropriation (FY 2009) $15,000
General Fund—Federal Appropriation . . . . . ((~~$16,843,000~~))
$16,809,000
TOTAL APPROPRIATION . . . . . ((~~$16,875,000~~))
$16,841,000

***Sec. 206.** 2007 c 522 s 206 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM
General Fund—State Appropriation (FY 2008) . . . . . ((~~$699,089,000~~))
$700,332,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$741,478,000~~))
$753,881,000
General Fund—Federal Appropriation . . . . . ((~~$1,539,010,000~~))
$1,534,175,000
General Fund—Private/Local Appropriation . . . . . ((~~$19,563,000~~))
$19,525,000
Pension Funding Stabilization Account—State Appropriation $1,448,000
Health Services Account—State Appropriation (FY 2008) $2,444,000
Health Services Account—State Appropriation (FY 2009) $2,444,000
Traumatic Brain Injury Account—State Appropriation . . . . . ((~~$440,000~~))
$1,212,000
TOTAL APPROPRIATION . . . . . ((~~$3,005,916,000~~))
$3,015,461,000

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

(1) The entire health services account appropriation, $10,456,000 of the general fund—state appropriation for fiscal year 2008, $11,370,000 of the general fund—state appropriation for fiscal year 2009, and $26,778,000 of the general fund—federal appropriation are provided solely for health care benefits

for agency home care workers who are employed through state contracts for at least twenty hours a week. The state contribution to the cost of health care benefits per eligible participating worker per month shall be no greater than $532.00 in fiscal year 2008 and $585.00 per month in fiscal year 2009.

(2) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed ((~~$158.11~~)) $159.34 for fiscal year 2008 and shall not exceed ((~~$164.18~~)) $165.04 for fiscal year 2009, including the rate add-on described in subsection (9) of this section. For all nursing facilities, the direct care, therapy care, support services, and operations component rates established in accordance with chapter 74.46 RCW shall be adjusted for economic trends and conditions by 3.2 percent effective July 1, 2007. For all nursing facilities, adjustments for economic trends and conditions effective July 1, 2008, shall be as specified in subsection (10)(c) of this section.

(3) In accordance with chapter 74.46 RCW, the department shall issue certificates of capital authorization that result in up to $16,000,000 of increased asset value completed and ready for occupancy in fiscal year 2008; up to $16,000,000 of increased asset value completed and ready for occupancy in fiscal year 2009; and up to $16,000,000 of increased asset value completed and ready for occupancy in fiscal year 2010.

(4) Adult day health services shall not be considered a duplication of services for persons receiving care in long-term care settings licensed under chapter 18.20, 72.36, or 70.128 RCW.

(5) In accordance with chapter 74.39 RCW, the department may implement two medicaid waiver programs for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) One waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons at any time.

(b) The second waiver program shall include coverage of in-home care. Enrollment in this second waiver shall not exceed 200 persons at any time.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on each of the two medically needy waivers, on monthly management reports.

(d) If it is necessary to establish a waiting list for either waiver because the budgeted number of enrollment opportunities has been reached, the department shall track how the long-term care needs of applicants assigned to the waiting list are met.

(6) $1,840,000 of the general fund—state appropriation for fiscal year 2008 and $1,877,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for operation of the volunteer chore services program.

(7) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPES) program do not exceed appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access to persons with the greatest unmet needs, as determined by department assessment processes.

(8) $125,000 of the general fund—state appropriation for fiscal year 2008, $125,000 of the general fund—state appropriation for fiscal year 2009, and

$250,000 of the general fund—federal appropriation are provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission on health care). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(9) ((~~$8,755,000~~)) $3,000,000 of the general fund—state appropriation for fiscal year 2009 and $3,134,000 of the general fund—federal appropriation are provided solely to increase compensation for low-wage workers in nursing homes beginning July 1, 2008. Within the funds provided, the department shall provide an add-on per resident day per facility based on the total funding divided by the total number of fiscal year 2009 medicaid patient days as forecasted by the caseload forecast council, not to exceed $1.57. The department may reduce the level of add-on if necessary to fit within this appropriation if the caseload forecasted days increase from the February 2008 forecast. The add-on shall be used to increase wages, benefits, and/or staffing levels for certified nurse aides; or to increase wages and/or benefits for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than $15 in calendar year 2006, according to cost report data. The add-on may also be used to address resulting wage compression for related job classes immediately affected by wage increases to low-wage workers. The department shall implement reporting requirements and a settlement process to ensure that the funds are spent according to this subsection. The department shall adopt rules to implement the terms of this subsection.

(10) $2,115,000 of the general fund—state appropriation for fiscal year 2008, $6,640,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$9,348,000~~)) $9,152,000 of the general fund—federal appropriation are provided solely to increase nursing facility payment rates.

(((~~(b) $125,000 of the general fund—state appropriation for fiscal year 2008 and $125,000 of the general fund—federal appropriation are provided solely for the department to contract with an outside entity to review the current medicaid payment methodology for nursing facilities and make recommendations for revisions to, restructuring of, or replacement of the existing payment methodology no later than October 1, 2007, to the governor and the appropriate fiscal and policy committees of the legislature.~~

~~(c) A joint legislative task force on long-term care residential facility payment systems shall review and develop recommendations related to payment methodologies for the care of medicaid-eligible residents of nursing homes, boarding homes, and adult family homes in Washington state.~~

~~(i) Membership of the task force shall consist of eight legislators. The president of the senate shall appoint two members from each of the two largest caucuses of the senate. The speaker of the house of representatives shall appoint two members of each of the two largest caucuses of the house of representatives. Each body shall select representatives from committees with jurisdiction over health and long-term care and fiscal matters.~~

~~(ii) The task force shall give strong consideration to the following principles in the course of its deliberations:~~

~~(A) A continuum of residential care settings should be available to medicaid-eligible vulnerable adults so as to honor consumer choice;~~

~~(B) Payment methodologies for care provided in adult family homes, boarding homes, and nursing homes should be based upon resident acuity, with~~

~~payment rates that recognize the impact of differing state and federal regulatory requirements upon facility costs, but also address current disparities in payments to facilities serving residents with similar nursing or personal care needs;~~

~~(C) Payment methodologies should be designed to support retention of qualified direct care staff through training, wages, and benefits offered to direct care staff, with special consideration given to nursing homes, boarding homes, and adult family homes that care for a disproportionate number of medicaid-eligible residents relative to their peer facilities;~~

~~(D) Performance measures related to critical issues such as staff retention and resident outcomes should be developed, with payment linked to facility performance on the measures; and~~

~~(E) Payment methodologies should be simplified, with greater predictability and stability in payments.~~

~~(iii) The task force shall:~~

~~(A) Review and consider the recommendations submitted in accordance with (b) of this subsection;~~

~~(B) Consider input from long-term care stakeholders with respect to the principles in (c)(ii) of this subsection;~~

~~(C) Review the current payment methodologies for nursing homes, boarding homes, and adult family homes, giving strong consideration to the principles in (c)(ii) of this subsection, and make recommendations for revisions to, restructuring of, or replacement of existing payment methodologies. The recommendations related to payments made in fiscal year 2009 shall be consistent with the amounts appropriated in this subsection.~~

~~(iv) The task force shall complete its review and submit its recommendations to the appropriate policy and fiscal committees of the legislature by December 31, 2007.~~

~~(v) Staff support for the task force shall be provided by senate committee services and the house of representatives office of program research.~~

~~(vi) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120.~~

~~(vii) The expenses of the task force shall be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committees, or their successor committees.~~

~~(viii) The task force expires December 31, 2007.~~))

(a) Of the amounts provided in this subsection, $297,000 of the general fund—state appropriation for fiscal year 2008, $364,000 of the general fund—state appropriation for fiscal year 2009, and $691,000 of the general fund—federal appropriation are provided solely to provide funding for direct care rates required by Senate Bill No. 6629 (nursing facility payment systems). If the bill is not enacted by June 30, 2008, then the amounts provided in this subsection (10)(a) shall lapse.

(b) Of the amounts provided in this subsection, $1,818,000 of the general fund—state appropriation for fiscal year 2008, $1,552,000 of the general fund—state appropriation for fiscal year 2009, and $3,526,000 of the general fund—federal appropriation are provided solely to fund projected increases in the weighted average nursing facility payment rates for fiscal years 2008 and 2009

due to appeals, client acuity, capital projects, bed changes, and other adjustments to cost projections deemed necessary by the department.

(c) The remaining amounts provided in this subsection of $4,724,000 general fund—state for fiscal year 2009 and $4,935,000 general fund—federal are provided solely for an adjustment for economic trends and conditions of 1.99 percent for direct care, therapy care, support services, and operations effective July 1, 2008.

(11) $180,000 of the general fund—state appropriation for fiscal year 2009 and $170,000 of the general fund—federal appropriation are provided solely for a review of the costs and benefits of a fair rental system to reimburse capital expenditures. The department must report its findings to the fiscal committees of the legislature and the office of financial management by July 1, 2009.

(((~~(10)~~))) (12) Within amounts appropriated in this section, the department is authorized to expand the number of boarding homes and adult family homes that receive exceptional care rates for persons with Alzheimer's disease and related dementias who might otherwise require nursing home care. The department may expand the number of licensed boarding home facilities that specialize in caring for such conditions by up to 100 beds. Effective July 1, 2008, the department shall be authorized to provide adult family homes that specialize in caring for such conditions with exceptional care rates for up to 50 beds. The department will develop standards for adult family homes to qualify for such exceptional care rates in order to enhance consumer choice.

(((~~(11)~~))) (13) $500,000 of the general fund—state appropriation for fiscal year 2008, $500,000 of the general fund—state appropriation for fiscal year 2009, and $816,000 of the general fund—federal appropriation are provided solely for the implementation of Engrossed Substitute House Bill No. 2111 (adult family homes). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(((~~(12) $440,000~~))) (14) $1,212,000 of the traumatic brain injury account—state appropriation is provided solely for the implementation of Second Substitute House Bill No. 2055 (traumatic brain injury). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(((~~(13)~~))) (15) Within amounts appropriated in this section and in section 205 of this act, the department of social and health services shall:

(a) Determine how geographic differences in community residential provider payments affect provider and workforce turnover;

(b) Examine alternative community residential provider payment systems that account for differences in direct care labor costs in various areas of the state, including alternative peer groupings in its payment systems that take such factors into account; and

(c) Submit a report of its findings and recommendations to the office of financial management and to the appropriate fiscal committees of the legislature by June 30, 2008.

(((~~(14)~~))) (16)(a) Amounts appropriated in this section are sufficient to increase provider payment rates by 6.0 percent for boarding homes, effective July 1, 2007, ((~~and by an additional 2.0 percent, effective July 1, 2008, for boarding homes,~~)) including those currently receiving exceptional care rates; and by 3.2 percent, effective July 1, 2007, ((~~and by an additional 2.0 percent,~~

~~effective July 1, 2008,~~)) for adult family homes, including those currently receiving exceptional care rates.

(b) The department shall implement phase one of full implementation of a seventeen CARE level payment system for community residential providers. Amounts appropriated in this section are sufficient to increase adult family home provider payment rates on average, effective July 1, 2008, including those currently receiving exceptional care rates, and to adjust adult family home rates for the first phase of a seventeen CARE level payment system. Effective July 1, 2008, the provider payment rate allocation for boarding homes contracted as assisted living shall be the provider's June 30, 2008, payment rate allocation, and the provider payment rate for boarding homes contracted as ARCs and EARCs shall be adjusted to reflect phase one of a seventeen CARE level payment system. This will be in effect until such time as the rates are consistent between adult family homes and boarding homes for delivery of the same patient care levels.

(c) Amounts provided in this section and in section 205 of this act are sufficient to assist adult family home providers with the cost of paying liability insurance.

((~~(15)~~)) (17) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—federal appropriation are provided solely for the department contract for an evaluation of training requirements for long-term care workers as generally described in Second Substitute House Bill No. 2284 (training of care providers).

(18) The department shall contract for housing with service models, such as cluster care, to create efficiencies in service delivery and responsiveness to unscheduled personal care needs by clustering hours for clients that live in close proximity to each other.

(19) $2,463,000 of the general fund—state appropriation for fiscal year 2009 and $1,002,000 of the general fund—federal appropriation are provided solely to implement sections 4 and 8 of Engrossed Second Substitute House Bill No. 2668 (long-term care programs). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(20) $40,000 of the general fund—state appropriation for fiscal year 2009 and $40,000 of the general fund—federal appropriation are provided solely to implement Second Substitute Senate Bill No. 6220 (nurse delegation) or sections 11 and 12 of Engrossed Second Substitute House Bill No. 2668 (long-term care programs). If neither bill is enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(21) $839,000 of the general fund—state appropriation for fiscal year 2009 and $838,000 of the general fund—federal appropriation are provided solely for the implementation of Substitute House Bill No. 2693 (required basic training and certification of long-term care workers). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(22) Within the funds appropriated in the section, the department shall establish one statewide hourly rate to reimburse home care agencies for the costs related to state clients for hours worked by direct care workers in receiving mandatory training. The statewide hourly rate shall be based on the hourly wage paid to individual providers plus mandatory taxes plus an adjustment based on the formula created under RCW 74.39A.310.

***Sec. 206 was partially vetoed. See message at end of chapter.**

Sec. 207. 2007 c 522 s 207 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ECONOMIC SERVICES PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$592,774,000~~)) $586,369,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$627,148,000~~)) $619,066,000

General Fund—Federal Appropriation . . . . . ((~~$1,053,264,000~~)) $1,037,038,000

General Fund—Private/Local Appropriation . . . . . ((~~$27,920,000~~)) $30,833,000

Pension Funding Stabilization Account—State Appropriation $4,592,000

TOTAL APPROPRIATION . . . . . ((~~$2,305,698,000~~)) $2,277,898,000

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

(1) ((~~$334,377,000~~)) $344,694,000 of the general fund—state appropriation for fiscal year 2008, ((~~$347,597,000~~)) $363,284,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$827,774,000~~)) $733,276,000 of the general fund—federal appropriation are provided solely for all components of the WorkFirst program. Within the amounts provided for the WorkFirst program, the department may provide assistance using state-only funds for families eligible for temporary assistance for needy families. Within the amounts provided for the WorkFirst program, the department shall:

(a) Establish a ((~~post-TANF~~)) career services work transition program;

(b) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Outcome data regarding job retention and wage progression shall be reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months;

(c) Submit a report by October 1, 2007, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2007-2009 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels;

(d) Provide quarterly fiscal reports to the office of financial management and the legislative fiscal committees detailing information on the amount expended from general fund—state and general fund—federal by activity;

(e) For fiscal year 2009, increase the temporary assistance for needy families grant standard by three percent to account for increased housing costs.

(2) Up to $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 of the amounts in subsection (1) of this section are for the WorkFirst pathway to engagement program. The department shall collaborate with community

partners and represented staff to identify additional services needed for WorkFirst clients in sanction status. The department shall contract with qualified community-based organizations to deliver such services, provided that such services are complimentary to the work of the department and are not intended to supplant existing staff or services. The department shall also contract with community-based organizations for the provision of services for WorkFirst clients who have been terminated after six months of sanction. Contracts established pursuant to this subsection shall have a performance-based component and shall include both presanction termination and postsanction termination services. Clients shall be able to choose whether or not to accept the services. The department shall develop outcome measures for the program related to outreach and reengagement, reduction of barriers to employment, and client feedback and satisfaction. Nothing in this subsection is intended to modify a collective bargaining agreement under chapter 41.80 RCW or to change the state's responsibility under chapter 41.80 RCW. The department shall report to the appropriate policy and fiscal committees of the legislature by December 1, 2007, on program implementation and outcomes. The department also shall report on implementation of specialized caseloads for clients in sanction status, including average caseload size, referral process and criteria, and expected outcomes for specialized caseloads.

(3) $210,000 of the general fund—state appropriation for fiscal year 2008, $187,000 of the general fund—state appropriation for fiscal year 2009, and $396,000 of the general fund—federal appropriation are provided solely for implementation of section 8 of Second Substitute House Bill No. 1088 (children's mental health). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(4) $152,000 of the general fund—state appropriation for fiscal year 2008, $96,000 of the general fund—state appropriation for fiscal year 2009, and $482,000 of the general fund—federal appropriation are provided solely for implementation of Second Substitute House Bill No. 1009 (child support schedule). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(5) $750,000 of the general fund—state appropriation for fiscal year 2008 and $750,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to increase naturalization services. These amounts shall supplement and not supplant state and federal resources currently provided by the department for this purpose.

(6) $1,500,000 of the general fund—state appropriation for fiscal year 2008 and $1,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to increase limited English proficiency pathway services. These amounts shall supplement and not supplant state and federal resources currently provided by the department for this purpose.

(7) $250,000 of the general fund—state appropriation for fiscal year 2008, $5,782,000 of the general fund—state appropriation for fiscal year 2009, and $6,431,000 of the general fund—federal appropriation are provided solely for implementation of Substitute Senate Bill No. 5244 (deficit reduction act). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(8) Within amounts appropriated in this section, the department shall: (a) Increase the state supplemental payment by $1.77 per month beginning July 1, 2007, and by an additional $1.83 per month beginning July 1, 2008, for SSI clients who reside in nursing facilities, residential habilitation centers, or state hospitals and who receive a personal needs allowance; and (b) decrease other state supplemental payments.

(9) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the department for the data tracking provisions specified in sections 701 and 702 of Second Substitute Senate Bill No. 5470 (dissolution proceedings). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(10) $1,552,000 of the general fund—state appropriation for fiscal year 2008 and $1,552,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Second Substitute Senate Bill No. 6016 (workfirst program). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(11) $50,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the department to award grants to small mutual assistance associations or small community-based organizations that contract with the department for immigrant and refugee assistance services. The funds shall be awarded to demonstrate the impact of providing funding for a case worker in the community organization on the refugees' economic self-sufficiency through the effective use of social services, and financial and medical assistance.

(12) $50,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute Senate Bill No. 6483 (local food production). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(13) $1,100,000 of the general fund—state appropriation for fiscal year 2009 and $850,000 of the general fund—federal appropriation are provided solely to increase the gross income limits for eligibility for programs authorized under RCW 74.04.500 and 74.08A.120 to 200 percent of the federal poverty level. The department shall adjust its rules and information technology systems to make the eligibility change effective October 1, 2008.

(14) The department, in conjunction with the House Bill No. 1290 work group, shall identify and analyze barriers preventing city, county, and state referrals of persons potentially eligible for expedited application processing authorized under RCW 74.09.555. The department, in conjunction with the House Bill No. 1290 work group, shall report its findings and recommendations to the appropriate committees of the legislature no later than November 15, 2008.

(15) $656,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to the department to increase immigration and naturalization services. These funds shall not supplant state and federal resources currently provided by the department for this purpose.

Sec. 208. 2007 c 522 s 208 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ALCOHOL AND SUBSTANCE ABUSE PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$69,445,000~~))
$69,252,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$69,663,000~~))
$74,467,000
General Fund—Federal Appropriation . . . . . ((~~$138,942,000~~))
$149,196,000
General Fund—Private/Local Appropriation . . . . . ((~~$632,000~~))
$6,083,000
Criminal Justice Treatment Account—State Appropriation . . . . . ((~~$17,752,000~~))
$18,555,000
Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2008) . . . . . ((~~$24,538,000~~))
$22,186,000
Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2009) . . . . . ((~~$24,538,000~~))
$22,186,000
Problem Gambling Account—State Appropriation . . . . . ((~~$1,567,000~~))
$1,464,000
Public Safety and Education Account—State Appropriation (FY 2008) . . . . . ((~~$1,044,000~~))
$3,396,000
Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$1,043,000~~))
$3,395,000
Pension Funding Stabilization Account—State Appropriation $146,000
TOTAL APPROPRIATION . . . . . ((~~$349,310,000~~))
$370,326,000

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

(1) $2,786,000 of the general fund—state appropriation for fiscal year 2008 and $2,785,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the parent child assistance program. The department shall contract with the University of Washington and community-based providers for the provision of this program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) $11,113,000 of the general fund—state appropriation for fiscal year 2008, $14,490,000 of the general fund—state appropriation for fiscal year 2009, and $14,269,000 of the general fund—federal appropriation are provided solely for the expansion of chemical dependency treatment services for adult medicaid eligible and general assistance-unemployable patients authorized under the 2005-07 biennial appropriations act. By September 30, 2007, the department shall submit an expenditure and program report relating to the patients receiving

treatment and other services pursuant to the funding provided in this subsection (2), as well as to other patients receiving treatment funded by the department. The report shall be submitted to the office of financial management and the appropriate policy and fiscal committees of the legislature. Subsequent updates to this report shall be provided by January 31 and July 31 of each fiscal year of the 2007-09 biennium. The reports shall include, but not necessarily be limited to, the following information: (a) The number and demographics (including categories) of patients served; (b) geographic distribution; (c) modality of treatment services provided (i.e. residential or out-patient); (d) treatment completion rates; (e) funds spent; and (f) where applicable, the estimated cost offsets in medical assistance on a total and per patient basis.

(3) $698,000 of the general fund—state appropriation for fiscal year 2008, ((~~$698,000~~)) $1,060,000 of the general fund—state appropriation for fiscal year 2009, and $154,000 of the general fund—federal appropriation are provided solely for the expansion authorized under the 2005-07 biennial appropriations act of chemical dependency treatment services for minors who are under 200 percent of the federal poverty level. The department shall monitor the number and type of clients entering treatment, for purposes of determining potential cost offsets.

(4) $250,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$250,000~~)) $145,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to contract for the following: (((~~(a) A pilot program in Pierce county for family therapeutic court services that include chemical dependency treatment with use of the prometa protocol; and (b) an independent evaluator to evaluate the efficacy of the treatment with the prometa protocol under the pilot program as compared to other drug treatment and to no treatment~~)) (a) To continue an existing pilot program in Pierce county limited to individuals who began chemical dependency treatment using the prometa protocol prior to March 11, 2008; and (b) to contract with an independent evaluator who will, to the extent possible, evaluate the Pierce county pilot, as well as summarize other research on the efficacy of the prometa protocol.

(5) $4,449,000 of the general fund—state appropriation for fiscal year 2009 and $1,000,000 of the criminal justice treatment account appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 6665 (crisis response), to continue existing pilot programs and to expand the intensive crisis response pilot to Spokane county. The continuation and expansion of the pilot programs expires June 30, 2009. If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

***Sec. 209.** 2007 c 522 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 2008) . . . . . ((~~$1,589,266,000~~)) $1,602,827,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,665,304,000~~)) $1,669,581,000

General Fund—Federal Appropriation . . . . . ((~~$4,305,197,000~~)) $4,344,748,000

General Fund—Private/Local Appropriation $2,000,000
Emergency Medical Services and Trauma Care Systems
Trust Account—State Appropriation $15,076,000
Health Services Account—State Appropriation (FY 2008) . . . . ((~~$350,259,000~~))
$388,946,000
Health Services Account—State Appropriation (FY 2009) . . . . ((~~$385,215,000~~))
$421,762,000
Tobacco Prevention and Control Account—State
Appropriation. $1,883,000
Pension Funding Stabilization Account—State
Appropriation. $646,000
TOTAL APPROPRIATION . . . . . ((~~$8,312,963,000~~))
$8,447,469,000

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

(4) 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.

(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) $1,111,000 of the health services account appropriation for fiscal year 2008, $1,110,000 of the health services account appropriation for fiscal year 2009, $5,402,000 of the general fund—federal appropriation, $1,590,000 of the general fund—state appropriation for fiscal year 2008, and $1,591,000 of the general fund—state appropriation for fiscal year 2009 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) $10,546,000 of the health services account appropriation for fiscal year 2008, $10,546,000 of the health services account—state appropriation for fiscal year 2009, and $19,725,000 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 2007-2009 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 ((~~a~~)) reports to the governor and legislature by November 1, 2007, and by November 1, 2008, that evaluate((~~s~~)) 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 2008 and fiscal year 2009, hospitals in the program shall be paid and shall retain (a) 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 (b) 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 ((~~that is the total of (a) the total payment for claims for services rendered during the fiscal year calculated according to the methodology employed by the legislature in the omnibus appropriations act for implementation in fiscal year 2008~~)). 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, and (b) disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 that pertain to fiscal year 2005. 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 ((~~is~~)) 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 ((~~cost~~)) settlement within eleven months after the end of the fiscal year. A final ((~~cost~~)) settlement shall be performed within two years after the end of the related fiscal year. To the extent that ((~~a final cost~~)) either settlement determines that a hospital has received funds in excess of what it would have received ((~~under the methodology in place in fiscal year 2008~~)) as described in this subsection, the hospital must repay ((~~these~~)) the excess amounts to the state when requested. ((~~$74,066,000~~)) $61,728,000 of the general fund—state appropriation for fiscal year 2008, of which $6,570,000 is appropriated in section 204(1) of this act and the balance in this section, and ((~~$59,776,000~~)) $57,894,000 of the general fund—state appropriation for fiscal year 2009, of which $6,570,000 is appropriated in section 204(1) of this act and the balance in this section, are provided solely for state grants for the participating hospitals.

(9) ((~~$7,314,000~~)) $4,399,000 of the general fund—state appropriation for fiscal year 2008, ((~~$7,800,000~~)) $6,391,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$48,995,000~~)) $55,384,000 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 are conditioned on the department satisfying the requirements of section 902 of this act.

(10) 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.

(11) 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.

(12) 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.

(13) The department shall, within available resources, continue operation of the medical care services care management pilot project for clients receiving general assistance benefits in King and Pierce counties. The project may use a full or partial capitation model that includes a mechanism for shared savings.

(14) $1,688,000 of the general fund—state appropriation for fiscal year 2008 and $1,689,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to incorporate a mental health service component to the pilot project established pursuant to subsection (13) of this section. Addition of the mental health service component authorized in this subsection is contingent upon the managed care contractor or the participating counties providing, alone or in combination, matching funds in cash or in kind, in an amount equal to one-ninth of the amounts appropriated in this subsection. The mental health service component may include care coordination, mental health services, and integrated

medical and mental health service delivery for general assistance clients with mental health disorders, as well as primary care provider training and education. The department shall provide a report to the appropriate committees of the legislature by January 1, 2009, on costs, savings, and any outcomes or quality measures associated with the pilot projects during calendar year 2007 and 2008. To the extent possible, the report shall address any impact that the mental health services component has had upon clients' use of medical services, including but not limited to primary care physician's visits, emergency room utilization, and prescription drug utilization.

(15) $341,000 of the health services account appropriation for fiscal year 2008, $1,054,000 of the health services account appropriation for fiscal year 2009, and $1,461,000 of the general fund—federal appropriation are provided solely to implement Second Substitute House Bill No. 1201 (foster care youth medical). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(16) ((~~$6,529,000~~)) $6,728,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$6,651,000~~)) $8,563,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with chapter 3, Laws of 2007 (part D copayment drug program).

(17) The department shall conduct a study to determine the financial impact associated with continuing to cover brand name medications versus the same medication in its generic form. The study shall account for all rebates paid to the state on each product studied up until the point where the generic form is less expensive, net of federally required rebates. The department shall submit its report to the legislative fiscal committees by December 1, 2007.

(18) $198,000 of the general fund—state appropriation for fiscal year 2008 and $268,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the first two years of a four-year project by the Seattle-King county health department to improve management of symptoms and reduce complications related to asthma among medicaid eligible children. The department shall contract with the Seattle-King county health department to have trained community health workers visit medicaid eligible children in their homes to identify and reduce exposure to asthma triggers, improve clients' self-management skills, and coordinate clients' care with their primary care and specialty providers. The contract shall include an evaluation of the impact of the services provided under the contract on urgent physician's visits, emergency room utilization, and inpatient hospitalization.

(19) ((~~$2,450,000~~)) $1,529,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$1,950,000~~)) $2,871,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for development and implementation of an outreach program as provided in chapter 5, Laws of 2007 (Second Substitute Senate Bill No. 5093, health services for children).

(a) By December 15, 2007, the department shall provide a report to the appropriate committees of the legislature on the progress of implementing the following activities:

(((~~(a)~~))) (i) Feasibility study and implementation plan to develop online application capability that is integrated with the department's automated client eligibility system;

(((~~(b)~~))) (ii) Development of data linkages with the office of superintendent of public instruction for free and reduced-price lunch enrollment information and the department of early learning for child care subsidy program enrollment information;

(((~~(c)~~))) (iii) Informing insurers and providers when their enrollees' eligibility is going to expire so insurers and providers can help families reenroll;

(((~~(d)~~))) (iv) Outreach contracts with local governmental entities, community based organizations, and tribes;

(((~~(e)~~))) (v) Results of data sharing with outreach contractors, and other contracted entities such as local governments, community-based organizations, tribes, health care providers, and insurers to engage, enroll, and reenroll identified children;

(((~~(f)~~))) (vi) Results of efforts to maximize federal matching funds, wherever possible; and

(((~~(g)~~))) (vii) Plans for sustaining outreach programs proven to be successful.

(b)(i) Within the amounts provided under this subsection (19), sufficient funding is provided to the department to develop and implement in conjunction with the employment security department a plan that would:

(A) Allow applicants and recipients of unemployment insurance to request assistance with obtaining health coverage for household members; and

(B) Authorize the exchange of information between the employment security department and the department of social and health services to more efficiently determine eligibility for health coverage under chapter 74.09 RCW.

(ii) The plan developed in (b)(i) of this subsection should address permissible uses of federal employment security funding and infrastructure, identification of any necessary statutory changes, and cost information. The department shall submit the plan in a report to the governor and the appropriate committees of the legislature by November 15, 2008.

(20) $640,000 of the general fund—state appropriation for fiscal year 2008 and $616,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to:

(a) Pay the premiums associated with enrollment in a medicare advantage plan for those full benefit dual eligible beneficiaries, as defined in RCW 74.09.010, who were enrolled on or before November 14, 2006 in a medicare advantage plan sponsored by an entity accredited by the national committee for quality assurance and for whom the department had been paying Part C premium as of November 2006; and

(b) Undertake, directly or by contract, a study to determine the cost-effectiveness of paying premiums for enrollment of full benefit dual eligible beneficiaries in medicare advantage plans in lieu of paying full benefit dual eligible beneficiaries' medicare cost-sharing. The study shall compare the cost and health outcomes experience, including rates of nursing home placement and costs for groups of full benefit dual eligible beneficiaries who are enrolled in medicare advantage plans, in medicare special needs plan or in medicare fee-for-service. The study shall compare the health status and utilization of health and long-term care services for the three groups, and the impact of access to a

medical home and specialty care, over a period of two years to determine any differences in health status, health outcomes, and state expenditures that result. The department shall submit the results of the study to the governor and the legislature by June 30, 2009. The department is authorized to accept private cash and in-kind donations and grants to support the study and evaluation.

(c) Track enrollment and expenditures for this population on department monthly management reports.

(21) The department may not transition to managed care delivery any population that has been primarily served under fee-for-service delivery unless the department first conducts a cost-effectiveness evaluation of the transition, including an evaluation of historical data on utilization patterns, and finds that the transition would result in a more effective and cost-efficient form of service delivery, pursuant to RCW 74.09.470. Any such finding must be provided to the governor and the legislature no less than ninety days before the transition begins.

(22) $756,000 of the general fund—state appropriation for fiscal year 2008, $1,193,000 of the general fund—state appropriation for fiscal year 2009, $1,261,000 of the health services account—state appropriation for fiscal year 2009, and $2,448,000 of the general fund—federal appropriation are provided solely to implement sections 5, 7, 8, and 11 of Second Substitute House Bill No. 1088 (children's mental health). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(22)~~)) (23) $288,000 of the general fund—state appropriation for fiscal year 2008, $277,000 of the general fund—state appropriation for fiscal year 2009, and $566,000 of the general fund—federal appropriation are provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon comm/health care). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(23) $150,000~~)) (24) $45,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the department of social and health services, in consultation with the health care authority and the employment security department, to prepare and submit a report and recommendations to the governor and the legislature related to coverage of low-wage workers enrolled on state plans who are employed by employers with more than fifty employees. The report shall address multiple approaches, including but not limited to the proposal included in House Bill No. 2094 (taxpayer health care fairness act). The discussion of each approach included in the report should identify how the approach would further the goal of shared responsibility for coverage of low-wage workers, obstacles to implementation and options to address them, and estimated implementation costs. The report shall be submitted on or before November 15, 2007. The agencies shall establish a workgroup, which shall be closely involved and consulted in the development of the report and recommendations under this subsection. The workgroup shall include the following participants: Persons or organizations representing large employers in the retail, agricultural and grocery trades, other large employers, organizations representing employees of large employers, organizations representing low-wage employees of large employers, state and local governmental entities as employers, and organizations representing employees of state and local governmental entities. In addition, the workgroup shall include three members from each of the two largest caucuses of the house of representatives, appointed

by the speaker, and three members from each of the two largest caucuses of the senate, appointed by the president of the senate.

(25) $1,883,000 of the tobacco prevention and control account—state appropriation and $1,742,000 of the general fund—federal appropriation are for the provision of smoking cessation benefits pursuant to Senate Bill No. 6421 (smoking cessation). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(26) As part of the five-year plan on state purchasing to improve health care quality under chapter 259, Laws of 2007, the department, in collaboration with the department of health, shall provide a report to the appropriate committees of the legislature outlining a strategy to improve immunization rates for all children in the state, including but not limited to vaccine administration fee increases and pay-for-performance incentives. The department shall submit the report to the governor and the health policy and fiscal committees of the legislature by November 1, 2008.

(27) Within existing funds, the department shall evaluate the fiscal impact of the federal upper limits on medicaid reimbursement to pharmacies implemented under the federal deficit reduction act, and report its findings to the legislature by December 1, 2008.

(28)(a) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a feasibility study to examine processes and systems that would expeditiously link persons released from confinement in state and local correctional facilities and institutions for mental diseases to medical assistance benefits for which they qualify. The study shall present an analysis of the costs and benefits associated with:

(i) Suspending eligibility for persons who were receiving medical assistance at the time their confinement began, such that upon the person's release from confinement, medical assistance benefits would immediately resume without the filing of a new application. In the evaluation of eligibility suspension, the department shall examine process modifications that would allow confined persons to recertify eligibility before or immediately after release from confinement;

(ii) Improving the efficiency and expanding the scope of the expedited medical assistance reinstatement and eligibility determination process established under RCW 74.09.555, including extending the process to persons other than those with mental disorders, both for persons who had been previously eligible before confinement and for persons who had not been eligible before confinement;

(iii) Providing medical and mental health evaluations to determine disability for purposes of the medical assistance program before the person's release from confinement; and

(iv) Notifying the department in a timely manner when a person who has been enrolled in medical assistance is confined in a state correctional institution or institution for mental diseases or is released from confinement.

(b) In conducting the study, the department shall collaborate with the Washington association of sheriffs and police chiefs, the department of corrections, the regional support networks, department field offices, institutions for mental diseases, and correctional institutions. The department shall submit the study to the governor and the legislature by November 15, 2008.

(29) $165,000 of the general fund—state appropriation for fiscal year 2009, $269,000 of the health services account—state appropriation for fiscal year 2009, and $425,000 of the general fund—federal appropriation are provided solely for lead blood level assessments under chapter 74.09 RCW for any eligible children younger than twenty-one years old in accordance with early and periodic screening and diagnostic treatment services as defined in section 1905 of Title XIX of the federal social security act and its implementing regulations and guidelines.

(30) $50,000 of the general fund—state appropriation for fiscal year 2009 and $50,000 of the general fund—federal appropriation are provided solely for implementation of the agency's responsibilities in Engrossed Second Substitute House Bill No. 2549 (patient-centered primary care). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(31) $50,000 of the general fund—state appropriation for fiscal year 2009 and $50,000 of the general fund—federal appropriation are provided solely for the senior dental access project pursuant to Engrossed Second Substitute House Bill No. 2668 (long term care programs). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

***Sec. 209 was partially vetoed. See message at end of chapter.**

Sec. 210. 2007 c 522 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—VOCATIONAL REHABILITATION PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$12,986,000~~)) $11,543,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$14,336,000~~)) $12,323,000

General Fund—Federal Appropriation . . . . . ((~~$90,886,000~~)) $92,975,000

Telecommunications Devices for the Hearing and Speech Impaired—State Appropriation . . . . . ((~~$1,793,000~~)) $1,975,000

Pension Funding Stabilization Account—State Appropriation $116,000

TOTAL APPROPRIATION . . . . . ((~~$120,117,000~~)) $118,932,000

***Sec. 211.** 2007 c 522 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—SPECIAL COMMITMENT PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$51,103,000~~)) $52,506,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$54,219,000~~)) $54,549,000

TOTAL APPROPRIATION . . . . . ((~~$105,322,000~~)) $107,055,000

The appropriations in this section are subject to the following conditions and limitations: $83,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Substitute House Bill No.

2756 (commitment center calls). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 211 was partially vetoed. See message at end of chapter.**

***Sec. 212.** 2007 c 522 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ADMINISTRATION AND SUPPORTING SERVICES PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$35,438,000~~)) $40,502,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$36,504,000~~)) $41,125,000

General Fund—Federal Appropriation . . . . . ((~~$64,730,000~~)) $64,805,000

General Fund—Private/Local Appropriation . . . . . ((~~$810,000~~)) $1,526,000

Public Safety and Education Account—State Appropriation (FY 2008) . . . . . ((~~$1,226,000~~)) $700,000

Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$1,226,000~~)) $1,752,000

Pension Funding Stabilization Account—State Appropriation. $1,408,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2008) $913,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2009) . . . . . ((~~$926,000~~)) $917,000

TOTAL APPROPRIATION . . . . . ((~~$143,181,000~~)) $153,648,000

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

(1) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the expansion of the Washington state mentors program, which provides technical assistance and training to mentoring programs that serve at-risk youth.

(2) $1,750,000 of the general fund—state appropriation for fiscal year 2008 and $1,750,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Washington council for prevention of child abuse and neglect to expand its home visitation program.

(3) $150,000 of the general fund—state appropriation for fiscal year 2008 and $150,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the family policy council for distribution as grants to community networks in counties with county juvenile courts participating in decategorization of funding through the juvenile rehabilitation administration. The council shall provide grants of up to $50,000 per fiscal year to the Pierce County-Tacoma urban community network and additional community networks supporting counties or groups of counties in evaluating programs funded through

a block grant by the juvenile rehabilitation administration. Funds not used for grants to community networks supporting counties or groups of counties participating in the decategorization block grants shall lapse.

(4) $500,000 of the general fund—state appropriation for fiscal year 2008 and $500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for funding of the teamchild project through the governor's juvenile justice advisory committee.

(5) $85,000 of the general fund—state appropriation for fiscal year 2008 and $85,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the continuation of the postpartum depression campaign, including the design and production of brochures in various languages, a radio public service announcement, and other outreach and training efforts.

(6) $200,000 of the general fund—state appropriation for fiscal year 2008 and $200,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to expand and enhance the juvenile detention alternatives initiative. This funding is intended to add three new program sites, support the addition of a data analyst, and to provide resources for the state to participate in annual national conferences.

(7) ((~~$144,000~~)) $95,000 of the general fund—state appropriation for fiscal year 2008, ((~~$111,000~~)) $87,000 of the general fund—state appropriation for fiscal year 2009, and ((~~$136,000~~)) $101,000 of the general fund—federal appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 1422 (incarcerated parents). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(8) $12,000 of the general fund—state appropriation for fiscal year 2009 and $7,000 of the general fund—federal appropriation are provided solely for the implementation of chapter 465, Laws of 2007.

(9) $196,000 of the general fund—state appropriation for fiscal year 2008, $804,000 of the general fund—state appropriation for fiscal year 2009, and $581,000 of the general fund—federal appropriation are provided solely for the development of a project plan, time line, and budget plan for a more flexible payment system for independent home care providers and others who collectively bargain for wages and benefits. The legislature finds the amounts provided are sufficient to fund the following related to a timely and expeditious transition to a more flexible provider payroll system: (a) An appropriate request for proposal; and (b) collection of the information necessary to develop the budget proposal needed to seek budget authority for the system.

(10) $49,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the family policy council to establish a new network in Skagit county.

***Sec. 212 was partially vetoed. See message at end of chapter.**

Sec. 213. 2007 c 522 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—PAYMENTS TO OTHER AGENCIES PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$59,460,000~~)) $59,085,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$59,497,000~~)) $60,121,000

General Fund—Federal Appropriation . . . . . ((~~$57,255,000~~))

$57,438,000
TOTAL APPROPRIATION . . . . . ((~~$176,212,000~~))
$176,644,000

The appropriations in this section are subject to the following conditions and limitations: $235,000 of the general fund—state appropriation for fiscal year 2009 and $111,000 of the general fund—federal appropriation are provided solely to implement sections 2 and 3 of Engrossed Second Substitute House Bill No. 3205 (child long-term well-being). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

Sec. 214. 2007 c 522 s 214 (uncodified) is amended to read as follows:

FOR THE STATE HEALTH CARE AUTHORITY

General Fund—State Appropriation (FY 2008) . . . . . ((~~$500,000~~))
$1,000,000
((~~General Fund—State Appropriation (FY 2009). . . . . $500,000~~))
General Fund—Federal Appropriation . . . . . ((~~$4,885,000~~))
$4,937,000
State Health Care Authority Administrative Account—
State Appropriation . . . . . ((~~$56,074,000~~))
$41,543,000
State Health Care Authority Administrative Account—
Private/Local Appropriation $100,000
Medical Aid Account—State Appropriation . . . . . ((~~$529,000~~))
$527,000
Health Services Account—State Appropriation
(FY 2008). . . . . ((~~$274,666,000~~))
$271,478,000
Health Services Account—State Appropriation
(FY 2009). . . . . ((~~$300,580,000~~))
$302,832,000
TOTAL APPROPRIATION . . . . . ((~~$637,734,000~~))
$622,417,000

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

(1) Within amounts appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents eligible to participate in the basic health plan as subsidized enrollees and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(2) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services and that choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(3) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(4) ((~~$1,984,000 of the health services account—state appropriation for fiscal year 2008 and $6,315,000~~)) $4,062,000 of the health services account—state appropriation for fiscal year 2009 ((~~are~~)) is provided solely for additional enrollment in the basic health plan. If available basic health plan slots are exceeded, the authority shall maintain a waiting list and provide for notification when slots become available.

(5) Appropriations in this act include specific funding for health records banking under section 10 of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission).

(6) $11,934,000 of the health services account—state appropriation for fiscal year 2008 and $11,834,000 of the health services account—state appropriation for fiscal year 2009 are provided solely for funding for health care services provided through local community clinics.

(7) $784,000 of the health services account—state appropriation for fiscal year 2008, $1,676,000 of the health service account—state appropriation for fiscal year 2009, $540,000 of the general fund—federal appropriation, and ((~~$22,480,000~~)) $8,200,000 of the state health care authority administrative account—state appropriation are provided for the development of a new benefits administration and insurance accounting system.

(8) $2,000,000 of the health services account—state appropriation for fiscal year 2009 is provided solely for the authority to provide one-time competitive grants to community health centers to increase the number of adults served on an ongoing basis. Each clinic receiving grant funding shall report annually, beginning December 2008, on key adult access indicators established by the authority, including but not limited to increases in the number of low-income adults served.

((~~(8) $2,137,000~~)) (9) $1,639,000 of the health services account—state appropriation for fiscal year 2008 and ((~~$1,000,000~~)) $2,988,000 of the health services account—state appropriation for fiscal year 2009 are provided solely for section 5 of Engrossed Second Substitute House Bill No. 1569 (health insurance partnership board) and related provisions of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission on health care). An additional $750,000 of the health services account—state appropriation for fiscal year 2009 is

provided solely for premium subsidies to low-income employees of small employers participating in the health insurance partnership, as generally described in Second Substitute House Bill No. 2537 (modifications to the health insurance partnership).

((~~(9)~~)) (10) $664,000 of the health services account—state appropriation for fiscal year 2008 and $664,000 of the health services account—state appropriation for fiscal year 2009 are provided solely for the implementation of the Washington quality forum, pursuant to section 9 of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission). If the section is not enacted by June 2007, the amounts provided in this subsection shall lapse.

((~~(10)~~)) (11) $600,000 of the state health care authority administrative account—state appropriation is provided solely for the implementation of the state employee health pilot, pursuant to section 41 of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission). If the section is not enacted by June 2007, the amounts provided in this subsection shall lapse.

((~~(11)~~)) (12) $250,000 of the health services account—state appropriation for fiscal year 2008 and $250,000 of the health services account—state appropriation for fiscal year 2009 are provided solely for continuation of the community health collaborative grant program in accordance with chapter 67, Laws of 2006 (E2SSB 6459). The applicant organizations must assure measurable improvements in health access within their service region, demonstrate active collaboration with key community partners, and provide two dollars in matching funds for each grant dollar awarded.

((~~(12)~~)) (13) $731,000 of the health services account—state appropriation for fiscal year 2008 and $977,000 of the health services account—state appropriation for fiscal year 2009 are provided solely for the dental residency program, including maintenance of the existing residency positions and the establishment of six additional resident positions in fiscal year 2008 (four in eastern Washington and two in the Seattle area), and five additional positions in fiscal year 2009.

(14) Appropriations in this act include funding for sections 14 (reducing unnecessary emergency room use) and 40 (state employee health program) of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission).

(15) $100,000 of the health services account—state appropriation for fiscal year 2009 is provided solely for implementation of the agency's responsibilities in Engrossed Second Substitute House Bill No. 2549 (patient-centered primary care). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

Sec. 215. 2007 c 522 s 215 (uncodified) is amended to read as follows:

FOR THE HUMAN RIGHTS COMMISSION

General Fund—State Appropriation (FY 2008) . . . . . ((~~$3,444,000~~))
$3,377,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$3,350,000~~))
$3,699,000

General Fund—Federal Appropriation . . . . . ((~~$1,345,000~~))
$1,523,000

TOTAL APPROPRIATION . . . . . ((~~$8,139,000~~))
$8,599,000

The appropriations in this section are subject to the following conditions and limitations: $115,000 of the general fund—state appropriation for fiscal year 2008 and $190,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Engrossed Substitute Senate Bill No. 6776 (whistleblower protections). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

***Sec. 216.** 2007 c 522 s 216 (uncodified) is amended to read as follows:

FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS

Worker and Community Right-to-Know Account—State Appropriation $20,000

Accident Account—State Appropriation . . . . . ((~~$18,123,000~~)) $18,330,000

Medical Aid Account—State Appropriation . . . . . ((~~$18,124,000~~)) $18,331,000

TOTAL APPROPRIATION . . . . . ((~~$36,267,000~~)) $36,681,000

The appropriations in this section are subject to the following conditions and limitations: $364,000 of the accident account—state appropriation and $364,000 of the medical aid account—state appropriation are provided solely for the payment of benefits required by Second Substitute House Bill No. 3139 (industrial insurance orders). If the bill is not enacted by June 30, 2008, or if additional benefits are not required under the bill, the amounts provided in this subsection shall lapse.

***Sec. 216 was partially vetoed. See message at end of chapter.**

Sec. 217. 2007 c 522 s 217 (uncodified) is amended to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

General Fund—State Appropriation (FY 2009) $306,000

Public Safety and Education Account—State Appropriation (FY 2008) . . . . . ((~~$15,537,000~~)) $15,680,000

Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$14,340,000~~)) $21,464,000

Death Investigations Account—State Appropriation $148,000

Municipal Criminal Justice Assistance Account—State Appropriation $460,000

Washington Auto Theft Prevention Authority Account—State Appropriation $12,322,000

TOTAL APPROPRIATION . . . . . ((~~$42,807,000~~)) $50,380,000

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

(1) During the 2007-2009 biennium, the criminal justice training commission is authorized to raise existing fees charged for firearms certification for security guards in excess of the fiscal growth factor established pursuant to RCW 43.135.055, if necessary, to meet the actual costs of conducting the certification programs and the appropriation levels in this section.

(2) $2,390,000 of the public safety and education account—state appropriation for fiscal year 2008 and ((~~$956,000~~)) $1,809,000 of the public safety and education account—state appropriation for fiscal year 2009 are provided solely for ten additional basic law enforcement academies in fiscal year 2008 and ((~~four~~)) nine additional basic law enforcement academies in fiscal year 2009. ((~~Continued funding for these additional academies is contingent upon the result of an office of financial management forecast for future student demand for basic law enforcement academies at the criminal justice training centers in Burien and Spokane.~~))

(3) $1,044,000 of the public safety and education account—state appropriation for fiscal year 2008 and $1,191,000 of the public safety and education account—state appropriation for fiscal year 2009 are provided solely for the Washington association of sheriffs and police chiefs to continue to develop, maintain, and operate the jail booking and reporting system (JBRS) and the statewide automated victim information and notification system (SAVIN).

(4) $28,000 of the public safety and education account—state appropriation for fiscal year 2008 is provided solely for the implementation of chapter 10, Laws of 2007 (SSB 5191, missing persons).

(5) $5,400,000 of the Washington auto theft prevention authority account—state appropriation for fiscal year 2008 and $6,922,000 of the Washington auto theft prevention authority account—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Third Substitute House Bill No. 1001 (auto theft). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(6) $150,000 of the public safety and education account—state appropriation for fiscal year 2008 and $150,000 of the public safety and education account—state appropriation for fiscal year 2009 are provided solely ((~~for the implementation of Substitute House Bill No. 1333 (child welfare). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse~~)) to deliver multi-disciplinary team training sessions aimed at improving the coordination of, and communication between, agencies involved in the investigation of child fatality, child sexual abuse, child physical abuse, and criminal neglect cases.

(7) $25,000 of the public safety and education account—state appropriation for fiscal year 2008 is provided solely for the implementation of Substitute Senate Bill No. 5987 (gang-related offenses). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(8) $50,000 of the public safety and education account—state appropriation for fiscal year 2008 and $50,000 of the public safety and education account—state appropriation for fiscal year 2009 are provided solely for support of the coalition of small police agencies major crimes task force. The purpose of this task force is to pool its resources and to establish an efficient and cooperative approach in addressing major violent crimes.

(9) $20,000 of the public safety and education account—state appropriation for fiscal year 2008 is provided solely for the implementation of Substitute Senate Bill No. 5315 (forest fires/property access). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(10) $5,000,000 of the public safety and education account—state appropriation for fiscal year 2009 is provided to the Washington association of

sheriffs and police chiefs solely to verify the address and residency of all registered sex offenders and kidnapping offenders under RCW 9A.44.130. The Washington association of sheriffs and police chiefs shall:

(a) Enter into performance-based agreements with units of local government to ensure that registered offender address and residency are verified:

(A) For level I offenders, every twelve months;

(B) For level II offenders, every six months; and

(C) For level III offenders, every three months.

For the purposes of this subsection, unclassified offenders and kidnapping offenders shall be considered at risk level I unless in the opinion of the local jurisdiction a higher classification is in the interest of public safety.

(b) Collect performance data from all participating jurisdictions sufficient to evaluate the efficiency and effectiveness of the address and residency verification program.

(c) Submit a report on the effectiveness of the address and residency verification program to the governor and the appropriate committees of the house of representatives and senate by September 1, 2009.

The Washington association of sheriffs and police chiefs may retain up to three percent of the amount provided in this subsection for the cost of administration. Any funds not disbursed for address and residency verification or retained for administration may be allocated to local prosecutors for the prosecution costs associated with failing to register offenses.

(11) $750,000 of the public safety and education fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute House Bill No. 2712 (criminal street gangs). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(12) $306,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a grant program to pay for the costs of local law enforcement agencies participating in specialized crisis intervention training.

***Sec. 218.** 2007 c 522 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$8,711,000~~))
$8,716,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$8,879,000~~))
$9,314,000

General Fund—Federal Appropriation $100,000

Public Safety and Education Account—State Appropriation (FY 2008) . . . . . ((~~$15,386,000~~))
$15,393,000

Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$16,607,000~~))
$16,525,000

Public Safety and Education Account—Federal Appropriation $10,000,000

Asbestos Account—State Appropriation . . . . . ((~~$923,000~~))
$908,000

Electrical License Account—State Appropriation . . . . . ((~~$40,718,000~~))
$41,104,000

Farm Labor Revolving Account—Private/Local
Appropriation. $28,000
Worker and Community Right-to-Know Account—State
Appropriation. . . . . ((~~$1,961,000~~))
$1,941,000
Public Works Administration Account—State
Appropriation. . . . . ((~~$3,996,000~~))
$3,948,000
Manufactured Home Installation Training Account—
State Appropriation $192,000
Accident Account—State Appropriation . . . . . ((~~$228,998,000~~))
$232,730,000
Accident Account—Federal Appropriation $13,622,000
Medical Aid Account—State Appropriation . . . . . ((~~$239,248,000~~))
$235,880,000
Medical Aid Account—Federal Appropriation $3,186,000
Plumbing Certificate Account—State Appropriation. . . . . ((~~$1,653,000~~))
$2,002,000
Pressure Systems Safety Account—State
Appropriation. . . . . ((~~$3,667,000~~))
$3,646,000
TOTAL APPROPRIATION . . . . . ((~~$597,875,000~~))
$599,235,000

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

(1) $2,413,000 of the medical aid account—state appropriation is provided solely for conducting utilization reviews of physical and occupational therapy cases at the 24th visit and the associated administrative costs, including those of entering data into the claimant's file. The department shall develop and report performance measures and targets for these reviews to the office of financial management. The reports are due September 30th for the prior fiscal year and must include the amount spent and the estimated savings per fiscal year.

(2) $2,247,000 of the medical aid account—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 5920 (vocational rehabilitation). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(3) $822,000 of the medical aid account—state appropriation is provided solely for vocational services professional staff salary adjustments necessary to recruit and retain positions required for anticipated changes in work duties as a result of Engrossed Substitute Senate Bill No. 5920 (vocational rehabilitation). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse. Compensation for anticipated changes to work duties is subject to review and approval by the director of the department of personnel and is subject to collective bargaining.

(4) $8,000,000 of the medical aid account—state appropriation is provided solely to establish a program of safety and health as authorized by RCW 49.17.210 to be administered under rules adopted pursuant to chapter 34.05 RCW, provided that projects funded involve workplaces insured by the medical

aid fund, and that priority is given to projects fostering accident prevention through cooperation between employers and employees or their representatives.

(5) $600,000 of the medical aid account—state appropriation is provided solely for the department to contract with one or more independent experts to evaluate and recommend improvements to the rating plan under chapter 51.18 RCW, including analyzing how risks are pooled, the effect of including worker premium contributions in adjustment calculations, incentives for accident and illness prevention, return-to-work practices, and other sound risk-management strategies that are consistent with recognized insurance principles.

(6) $181,000 of the accident account—state appropriation and $181,000 of the medical aid account—state appropriation are provided solely to implement Substitute Senate Bill No. 5443 (workers' compensation claims). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(7) $558,000 of the medical aid account—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 5290 (workers' compensation advisory committees). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(8) $104,000 of the public safety and education account—state appropriation for fiscal year 2008, $104,000 of the public safety and education account—state appropriation for fiscal year 2009, $361,000 of the accident account—state appropriation, and $361,000 of the medical aid account—state appropriation are provided solely for implementation of Engrossed Substitute Senate Bill No. 5675 (workers' compensation benefits). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(9) $730,000 of the medical aid account—state appropriation is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(10) $437,000 of the accident account—state appropriation and $437,000 of the medical aid account—state appropriation are provided solely for implementation of Substitute Senate Bill No. 5053 (industrial insurance ombudsman). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(11) $74,000 of the accident account—state appropriation and $74,000 of the medical aid—state appropriation are provided solely for implementation of Engrossed Substitute Senate Bill No. 5915 (notices to employers). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(12) $605,000 of the accident account—state appropriation for fiscal year 2008 is provided solely for a study of the incidence of permanent total disability pensions in the state's workers' compensation system. To conduct the study, the department shall contract with an independent researcher that has demonstrated expertise in workers' compensation systems. When selecting the independent researcher, the department shall consult the labor and business members of the workers' compensation advisory committee and, if the labor and business members of the workers' compensation advisory committee agree on a particular independent researcher, the department shall select that independent researcher. The study must consider causes of the recent increase in permanent total

disability cases, future anticipated permanent total disability trends, a comparison of Washington's permanent total disability claims experience and injured workers with other states and jurisdictions, the impact of the standard for finding workers employable on the incidence of permanent total disability pensions, and the impact of vocational rehabilitation under RCW 51.32.095 on the incidence of permanent total disability pensions. The department shall report to the workers' compensation advisory committee, the house of representatives commerce and labor committee, and the senate labor, commerce, research and development committee on the results of the study on or before July 1, 2008.

(13) $1,089,000 of the accident account—state appropriation and $192,000 of the medical aid account—state appropriation are provided solely for implementation of chapter 27, Laws of 2007 (ESHB 2171, crane safety).

(14) $100,000 of the general fund—federal appropriation and $192,000 of the manufactured home installation training account—state appropriation are provided solely for Substitute House Bill No. 2118 (mobile/manufactured homes). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(15) $107,000 of the accident account—state appropriation and $107,000 of the medical aid account—state appropriation are provided solely to implement Senate Bill No. 6839 (workers' compensation coverage). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(16) $224,000 of the general fund—state appropriation for fiscal year 2009, $741,000 of the accident account—state appropriation, and $741,000 of the medical aid account—state appropriation are provided solely for implementation of Second Substitute Senate Bill No. 6732 (construction industry). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(17) $408,000 of the accident account—state appropriation and $72,000 of the medical aid account—state appropriation are provided solely to implement Substitute House Bill No. 2602 (victims' employment leave). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(18) $3,000 of the public safety and education account—state appropriation for fiscal year 2008 and $3,000 of the public safety and education account—state appropriation for fiscal year 2009 are provided solely to implement Substitute Senate Bill No. 6246 (industrial insurance claims). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(19) $368,000 of the plumbing certificate account—state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5831 (HVAC and refrigeration). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(20) $256,000 of the accident account—state appropriation and $256,000 of the medical aid account—state appropriation are provided solely for the payment of benefits required by Second Substitute House Bill No. 3139 (industrial insurance orders). If the bill is not enacted by June 30, 2008, or if additional benefits are not required under the bill, the amounts provided in this subsection shall lapse.

(21) $40,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the department to conduct a review of the need for regulation of general and specialty contractors involved in the repair, alteration, or construction of single-family homes using the public interest criteria set forth in

RCW 18.118.010 and as generally described in Second Substitute House Bill No. 3349 (residential contractors). By October 1, 2008, the department and the department of licensing shall report their findings to the appropriate committees of the legislature.

(22) The department of labor and industries shall enter into an interagency agreement with the employment security department to expend funds from the family leave insurance account for the implementation of the family leave insurance program.

(23) Pursuant to RCW 43.135.055, the department is authorized to increase the following fees as necessary to meet the actual costs of conducting business and the appropriation levels in this section and by not more than 5.53 percent in fiscal year 2008: Boiler inspection permits and fees; boiler permit fees; plumbers' continuing education; and plumbers' licensing and examination fees.

***Sec. 218 was partially vetoed. See message at end of chapter.**

Sec. 219. 2007 c 522 s 219 (uncodified) is amended to read as follows:

FOR THE INDETERMINATE SENTENCE REVIEW BOARD

General Fund—State Appropriation (FY 2008) $1,876,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,907,000~~))
$2,012,000
TOTAL APPROPRIATION . . . . . ((~~$3,783,000~~))
$3,888,000

The appropriations in this subsection are subject to the following conditions and limitations: $224,000 of the general fund—state appropriation for fiscal year 2008 and $210,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of House Bill No. 1220 (sentence review board). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

Sec. 220. 2007 c 522 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS
General Fund—State Appropriation (FY 2008) $2,124,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,183,000~~))
$2,142,000
Charitable, Educational, Penal, and Reformatory
Institutions Account—State Appropriation $10,000
((~~Veterans Innovations Program Account
Appropriation . . . . . $1,437,000~~))
TOTAL APPROPRIATION . . . . . ((~~$5,754,000~~))
$4,276,000

(2) FIELD SERVICES
General Fund—State Appropriation (FY 2008) . . . . . ((~~$5,126,000~~))
$5,264,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$5,249,000~~))
$5,593,000
General Fund—Federal Appropriation . . . . . ((~~$972,000~~))
$1,025,000
General Fund—Private/Local Appropriation . . . . . ((~~$2,987,000~~))

$3,317,000
Veterans Innovations Program Account Appropriation $1,437,000
Veteran Estate Management Account—Private/Local
Appropriation. $1,062,000
TOTAL APPROPRIATION . . . . . ((~~$15,396,000~~))
$17,698,000

The appropriations in this subsection are subject to the following conditions and limitations: $440,000 of the general fund—state appropriation for fiscal year 2008 and $560,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Second Substitute Senate Bill No. 5164 (veterans' conservation corps). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(3) INSTITUTIONAL SERVICES
General Fund—State Appropriation (FY 2008) . . . . . ((~~$8,340,000~~))
$7,948,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$8,894,000~~))
$5,984,000
General Fund—Federal Appropriation . . . . . ((~~$41,333,000~~))
$43,126,000
General Fund—Private/Local Appropriation . . . . . ((~~$30,197,000~~))
$31,574,000
TOTAL APPROPRIATION . . . . . ((~~$88,764,000~~))
$88,632,000

Sec. 221. 2007 c 522 s 221 (uncodified) is amended to read as follows:

FOR THE HOME CARE QUALITY AUTHORITY
General Fund—State Appropriation (FY 2008) $1,721,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,740,000~~))
$1,731,000
TOTAL APPROPRIATION . . . . . ((~~$3,461,000~~))
$3,452,000

***Sec. 222.** 2007 c 522 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH
General Fund—State Appropriation (FY 2008) . . . . . ((~~$81,288,000~~))
$81,352,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$78,032,000~~))
$86,258,000
General Fund—Federal Appropriation . . . . . ((~~$480,735,000~~))
$477,072,000
General Fund—Private/Local Appropriation . . . . . ((~~$111,257,000~~))
$119,919,000
Hospital Commission Account—State Appropriation . . . . . ((~~$1,247,000~~))
$144,000
Health Professions Account—State Appropriation . . . . . ((~~$62,419,000~~))
$68,877,000
Aquatic Lands Enhancement Account—State
Appropriation. $600,000
Emergency Medical Services and Trauma Care Systems

Trust Account—State Appropriation . . . . . ((~~$12,610,000~~))
$12,606,000
Safe Drinking Water Account—State Appropriation . . . . . ((~~$3,064,000~~))
$3,041,000
Public Health Services Account—State Appropriation $1,000,000
Drinking Water Assistance Account—Federal
Appropriation. . . . . ((~~$16,991,000~~))
$19,027,000
Waterworks Operator Certification—State
Appropriation. . . . . ((~~$1,518,000~~))
$1,513,000
Drinking Water Assistance Administrative Account—
State Appropriation $326,000
Water Quality Account—State Appropriation
(FY 2008). $1,975,000
Water Quality Account—State Appropriation
(FY 2009). . . . . ((~~$2,013,000~~))
$1,983,000
State Toxics Control Account—State Appropriation . . . . . ((~~$3,415,000~~))
$3,460,000
Medical Test Site Licensure Account—State
Appropriation. . . . . ((~~$2,068,000~~))
$2,057,000
Youth Tobacco Prevention Account—State Appropriation $1,512,000
Public Health Supplemental Account—Private/Local
Appropriation. . . . . ((~~$2,482,000~~))
$3,918,000
Accident Account—State Appropriation . . . . . ((~~$294,000~~))
$291,000
Medical Aid Account—State Appropriation $48,000
Health Services Account—State
Appropriation (FY 2008). $42,122,000
Health Services Account—State
Appropriation (FY 2009). . . . . ((~~$46,663,000~~))
$51,429,000
Tobacco Prevention and Control Account—State
Appropriation. . . . . ((~~$52,870,000~~))
$52,846,000
TOTAL APPROPRIATION . . . . . ((~~$1,005,773,000~~))
$1,033,376,000

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

(1) The department is authorized to raise existing fees charged for its fee-supported programs in excess of the fiscal growth factor pursuant to RCW 43.135.055, if necessary, to meet the actual costs of conducting business and the appropriation levels in this section. Pursuant to RCW 43.135.055 and RCW 43.70.250, the department is further authorized to increase fees in its fee-supported programs as necessary to meet the actual costs of conducting business

and the appropriation levels in this section, as specifically authorized in LEAP Document DOH-2008, as developed by the legislative evaluation and accountability program on March 11, 2008.

(2) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) $877,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1099 (dental professions). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(4) $198,000 of the general fund—state appropriation for fiscal year 2008 and $24,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute House Bill No. 2304 (cardiac care services). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(5) $138,000 of the general fund—state appropriation for fiscal year 2008 and $220,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for an evaluation of chronic care provider training.

(6) $51,000 of the general fund—state appropriation for fiscal year 2008 and $24,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Substitute Senate Bill No. 5297 (sex education). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(7) $103,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the implementation of Substitute House Bill No. 1837 (nonambulatory persons). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(8) $201,000 of the general fund—private/local appropriation is provided solely for the implementation of Substitute House Bill No. 2087 (health care facilities). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(9) $293,000 of the general fund—state appropriation for fiscal year 2008 and $287,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for public service announcements regarding childhood lead poisoning, information pamphlets, rule development, and for early identification of persons at risk of having elevated blood-lead levels, which includes systematically screening children under six years of age and other target

populations identified by the department. Priority will be given to testing children and increasing the registry in the lead surveillance program.

(10) $101,000 of the general fund—state appropriation for fiscal year 2008, $81,000 of the general fund—state appropriation for fiscal year 2009, and $6,000 of the general fund—private/local appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 1414 (ambulatory surgical facilities). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(11) $55,000 of the health professions account appropriation is provided solely for the implementation of Substitute House Bill No. 1397 (massage therapy). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(12) $58,000 of the general fund—private/local appropriation is provided solely for the implementation of Senate Bill No. 5398 (specialty hospitals). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(13) $34,000 of the general fund—state appropriation for fiscal year 2008, $44,000 of the general fund—state appropriation for fiscal year 2009, and $224,000 of the oyster reserve land account—state appropriation are provided solely for the implementation of Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(14) $571,000 of the general fund—state appropriation for fiscal year 2008 and $458,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Second Substitute House Bill No. 1106 (hospital acquired infections). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(15) $4,000,000 of the general fund—state appropriation for fiscal year 2008 ((~~and $1,000,000~~)), $5,000,000 of the general fund—state appropriation for fiscal year 2009, and $1,000,000 of the public health services account—state appropriation are provided solely for department of health-funded family planning clinics to increase the capacity of the clinics to provide family planning and reproductive health services to low-income men and women who are not otherwise eligible for services through the department of social and health services medical assistance program and for clinical or other health services associated with sexually transmitted disease testing through the infertility prevention project. Funds appropriated and expended under this subsection for fiscal year 2009 shall be distributed in a manner that allocates funding to department of health-funded family planning clinics based upon the percentage of medical assistance family planning waiver clients in calendar year 2005 who received services from a provider located in the geographic area served by the department of health-funded clinic. Of these amounts, the department is authorized to expend up to $1,000,000 of its general fund—state appropriation for fiscal year 2009 for services provided in fiscal year 2008, if necessary, to offset reductions in federal funding.

(16) $1,000,000 of the general fund—state appropriation for fiscal year 2008 is for one-time funding to purchase and store antiviral medications to be used in accordance with the state pandemic influenza response plan. These

drugs are to be purchased through the United States department of health and human services to take advantage of federal subsidies.

(17) $147,000 of the general fund—state appropriation for fiscal year 2008 and $32,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department of health to provide relevant information on measures taken to facilitate expanded use of reclaimed water pursuant to Engrossed Second Substitute Senate Bill No. 6117 (reclaimed water). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(18) $550,000 of the general fund—state appropriation for fiscal year 2008 and $550,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the lifelong AIDS alliance to restore lost federal funding.

(19) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for medical nutritional therapy for people with HIV/AIDS and other low-income residents in King county with chronic illnesses.

(20) $645,000 of the general fund—state appropriation for fiscal year 2008 and $645,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the neurodevelopmental center system, which provides therapy and medical services for young, low-income children with developmental disabilities.

(21) $100,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to continue the autism task force established by chapter 259, Laws of 2005, through June 30, 2008. The task force shall:

(a) Review and continue to refine criteria for regional autism centers throughout Washington state based on community needs in each area, and address the role of autism centers within the larger context of developmental disabilities;

(b) Prioritize its December 2006 recommendations and develop an implementation plan for the highest priorities. The plan should detail how systems will coordinate to improve service and avoid duplication between state agencies including the department of social and health services, department of health, office of superintendent of public instruction, as well as school districts, autism centers, and local partners and providers. The plan shall also estimate the costs of the highest priority recommendations and report to the legislature and governor by December 1, 2007;

(c) Compile information for and draft the "Washington Service Guidelines for Individuals with Autism - Birth Through Lifespan" book described in the task force's recommendations. Funding to print and distribute the book is expected to come from federal or private sources; and

(d) Monitor the federal combating autism act and its funding availability and make recommendations on applying for grants to assist in implementation of the 2006 task force recommendations. The department of health shall be the lead agency in providing staff for the task force. The department may seek additional staff assistance from the office of the superintendent of public instruction and the committee staff of the legislature. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses.

(22) $200,000 of the general fund—state appropriation for fiscal year 2008 and $200,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of the Washington state hepatitis C strategic plan.

(23) $142,000 of the health professions account appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 5403 (animal massage practitioners). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(24) $174,000 of the health professions account appropriation is provided solely for the implementation of Substitute Senate Bill No. 5503 (athletic trainers). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(25) $75,000 of the health professions account appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 5292 (physical therapist assistants). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(26) $94,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to implement Engrossed Second Substitute Senate Bill No. 6032 (medical use of marijuana). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(27) $386,000 of the general fund—state appropriation for fiscal year 2008 and $384,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Substitute Senate Bill No. 5894 (large on-site sewage systems). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(28) $1,721,000 of the health professions account appropriation is provided solely for the implementation of sections 11 and 12 (medical information) of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission on health care). If the sections are not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(29) $10,000,000 of the health services account—state appropriation for fiscal year 2008 and $10,000,000 of the health services account—state appropriation for fiscal year 2009 are provided solely for distribution to local health jurisdictions and for the costs of administering the public health related sections of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission on health care), subject to the following conditions and limitations:

(a) During the month of January 2008, and January 2009, the department of health shall distribute funds appropriated in this section to local health jurisdictions, less an amount not to exceed five percent for the costs of administering the public health related sections of Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission on health care). The amount of funding for distribution to a jurisdiction before the administrative deduction shall be the greater of: (i) One hundred thousand dollars; or (ii) (A) a base level of funding of seventy-five thousand dollars plus the per capita amount, for a jurisdiction with a population of four hundred thousand persons or fewer; or (B) a base level of funding of twenty-five thousand dollars plus the per capita amount, for a jurisdiction with a population greater than four hundred thousand persons. Amounts distributed under this subsection must be used to fund core

public health functions of statewide significance as defined in Engrossed Second Substitute Senate Bill No. 5930 (blue ribbon commission on health care).

(b) For the purposes of this subsection:

(i) "Per capita amount" means an amount equal to seven million five hundred thousand dollars multiplied by the proportion of the population of the jurisdiction in the previous calendar year to the population of the state in the previous calendar year.

(ii) "Population" means the number of persons as last determined by the office of financial management. If the jurisdiction comprises a single county, "population" means the number of persons in the county. For a jurisdiction comprising two or more counties, "population" means the number of persons in all counties comprising the jurisdiction.

(iii) "Local health jurisdiction" or "jurisdiction" means a county board of health organized under chapter 70.05 RCW, a health district organized under chapter 70.46 RCW, or a combined city and county health department organized under chapter 70.08 RCW.

(c) The department may adopt rules necessary to administer this subsection.

(30) $15,000 of the general fund—state appropriation for fiscal year 2008 and $35,000 of the health professions account—state appropriation are provided solely for an evaluation of the economic benefits to the state's health care system of the midwifery licensure and regulatory program under chapter 18.50 RCW. In particular, the department shall contract with a consultant to conduct a review of existing research literature on whether these economic benefits exceed the state expenditures to subsidize the cost of the midwifery licensing and regulatory program under RCW 43.70.250. The evaluation shall include an assessment of the economic benefits to consumers who elect to have out-of-hospital births with midwives, including any reduced use of procedures that increase the costs of childbirth. The department shall submit the report to the appropriate policy and fiscal committees of the legislature by January 1, 2008. ((~~If Engrossed House Bill No. 1667 (health professions licensing fees) is enacted by June 30, 2007, the amounts provided in this subsection are provided solely for the purposes of that bill.~~))

(31) $147,000 of the health professions account—state appropriation is provided solely for the department of health to convene a work group to develop recommendations regarding the need to regulate those individuals currently registered with the department of health as counselors. The department of health shall submit recommendations of the work group to the legislature and governor by November 15, 2007. Based on the recommendations of the work group, the department of health shall draft credentialing guidelines for all registered counselors by January 1, 2008. Guidelines shall include education in risk assessment, ethics, professional standards, and deadlines for compliance.

(32) $680,000 of the health services account—state appropriation for fiscal year 2009 is provided solely for the prescription monitoring program under chapter 70.225 RCW to monitor the prescribing and dispensing of drugs to reduce the likelihood of adverse drug effects, particularly for senior citizens taking multiple medications. The attorney general shall deposit to the health services account at least $680,000 from the *cy pres* monetary portion of the consent decree in settlement of the consumer protection act litigation against Caremark Rx, LLC (King county superior court cause no. 08-2-06098-5). The

amount provided in this subsection may be expended only to the extent that the attorney general deposits these moneys to the health services account, to be expended consistent with the terms of the consent decree.

(33) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Second Substitute Senate Bill No. 6483 (local food production). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(34) $400,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the senior falls prevention pilot program, pursuant to section 7 of Engrossed Second Substitute House Bill No. 2668 (long-term care programs).

(35) $585,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state breast and cervical health program to increase the provider reimbursement rate for digital mammographies to the medicare equivalent rate.

(36) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the child death review program. The program shall be transferred from the community and family health division to the injury prevention division within the department.

(37) $155,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Kitsap county health district's home visits for newborns program. In order to receive these funds, the county health district must commit an equal amount of funding for this purpose.

(38) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the northwest sickle cell collaborative program.

(39) $77,000 of the general fund—state appropriation for fiscal year 2008 and $154,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the restoration of maxillofacial/cleft palate teams in Yakima, Spokane, Seattle, and Tacoma.

(40) $17,000 of the health professions account—state appropriation is provided solely to implement Second Substitute Senate Bill No. 6220 (nurse delegation) or sections 11 and 12 of Engrossed Second Substitute House Bill No. 2668 (long-term care programs). If neither bill is enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(41) $11,000 of the health professions account—state appropriation is provided solely to implement Substitute Senate Bill No. 6439 (radiologist assistants). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(42) $115,000 of the general fund—state appropriation for fiscal year 2009 and $4,261,000 of the health professions account—state appropriation are provided solely for implementation of Fourth Substitute House Bill No. 1103 (health professions). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(43) $558,000 of the health professions account—state appropriation is provided solely for implementation of Second Substitute House Bill No. 2674 (counselor credentialing). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(44) The department of licensing and the department of health shall jointly review and report to the appropriate policy committees of the legislature by

December 1, 2008, recommendations for implementing a process of holding in abeyance for up to six months following the conclusion of active duty service the expiration of, and currency requirements for, professional licenses and certificates for individuals who have been called to active duty military service.

(45) The higher education coordinating board, the department of licensing, and the department of health shall jointly review and report to appropriate policy committees of the legislature by December 1, 2008, on barriers and opportunities for increasing the extent to which veterans separating from duty are able to apply skills sets and education required while in service to certification, licensure, and degree requirements.

(46) $120,000 of the general fund—state appropriation for fiscal year 2008 and $275,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for continued development and implementation of the outbreak disease information network toolkit at the department and other local government health departments.

(47) $35,000 of the general fund—state appropriation for fiscal year 2009 and $80,000 of the state toxics control account—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2647 (children's safe products). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(48) $26,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Substitute House Bill No. 2431 (cord blood banking). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(49) $143,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Substitute Senate Bill No. 6340 (water system program). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(50) $309,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Engrossed Second Substitute House Bill No. 2549 (patient-centered care). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(51) $200,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the department's efforts to prevent the spread of methicillin resistant staphylococcus aureus and other multidrug resistant organisms by providing hospitals with support for their activities relating to surveillance, outbreak investigation, and lab testing. Of this amount, $100,000 is for the department to pay for genetic testing of methicillin resistant staphylococcus aureus and other multidrug resistant organisms for hospitals investigating outbreaks.

(52) $96,000 of the health professions account—state appropriation is provided solely for the implementation of Substitute House Bill No. 2881 (practice of dentistry). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(53) $80,000 of the health professions account—state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 2693 (long-term care workers). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(54) $130,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the midwifery licensure and regulatory program to offset a reduction in revenue from fees. There shall be no change to the current annual fees for new or renewed licenses for the midwifery program. The department shall convene the midwifery advisory committee on a quarterly basis to address issues related to licensed midwifery.

***Sec. 222 was partially vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 223.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS. (1) The appropriations to the department of corrections in this act shall be expended for the programs and in the amounts specified herein. However, after May 1, 2008, after approval by the director of financial management and unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2008 between programs. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any deviations from appropriation levels. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

(2) The department may transfer up to $15,000,000 of the general fund—state appropriation for fiscal year 2009 into fiscal year 2008, if deemed necessary by the department and approved in advance by the director of financial management. The director of financial management shall notify the fiscal committees of the legislature in writing seven days prior to approving a transfer under this subsection. The written notification shall include a narrative explanation and justification of the transfer including allotment detail by program, budget object, and budget unit for both fiscal years, both before and after any transfers.

***Sec. 224.** 2007 c 522 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

(1) ADMINISTRATION AND SUPPORT SERVICES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$57,968,000~~)) $57,545,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$52,911,000~~)) $52,652,000

Washington Auto Theft Prevention Authority Account—State Appropriation $169,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2008) $13,000

Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2009) $13,000

Public Safety and Education Account—State Appropriation (FY 2008). $1,467,000

Public Safety and Education Account—State
Appropriation (FY 2009). . . . . ((~~$1,504,000~~))
$1,481,000
Pension Funding Stabilization Account—State
Appropriation. $1,280,000
TOTAL APPROPRIATION . . . . . ((~~$115,325,000~~))
$114,620,000

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

(a) $9,389,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the completion of phase three of the department's offender-based tracking system replacement project. This amount is conditioned on the department satisfying the requirements of section 902 of this act.

(b) $35,000 of the general fund—state appropriation for fiscal year 2008 and $35,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the establishment and support of a statewide council on mentally ill offenders that includes as its members representatives of community-based mental health treatment programs, current or former judicial officers, and directors and commanders of city and county jails and state prison facilities. The council will begin to investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who have a history of offending or who are at-risk of offending, including their mental health, physiological, housing, employment, and job training needs.

(c) $169,000 of the Washington auto theft prevention authority account—state appropriation for fiscal year 2008 is provided solely for the implementation of Engrossed Third Substitute House Bill No. 1001 (auto theft). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(d) $102,000 of the general fund—state appropriation for fiscal year 2008 and $95,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Second Substitute House Bill No. 1422 (incarcerated parents). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(e) Within funds appropriated in this section, the department shall seek contracts for chemical dependency vendors to provide chemical dependency treatment of offenders in corrections facilities, including corrections centers and community supervision facilities, which have demonstrated effectiveness in treatment of offenders and are able to provide data to show a successful treatment rate.

(f) $314,000 of the general fund—state appropriation for fiscal year 2008 and $294,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for four additional staff to collect and analyze data for programs funded through the offender reentry initiative and collect, analyze, and disseminate information required by the GMAP process, performance audits, data requests, and quality assessments and assurances.

(g) $32,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Substitute Senate Bill No. 6244 (conversion of facilities to house violators of community supervision). If the bill

is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(h)(i) The secretary shall establish an advisory committee, to be known as the offenders in families advisory committee.

(ii) The advisory committee shall be advisory to the secretary.

(iii) Committee membership shall not exceed ten persons and shall be representative of the characteristics of the populations of offenders under the jurisdiction of the department, including representing offender geographic, racial, and ethnic diversity. At least five members of the advisory committee shall be family members of offenders currently or formerly under the jurisdiction of the department.

(iv) All committee members shall serve on a volunteer basis.

(v) The purpose of the advisory committee shall be to provide advice on aspects of the administration and application of department rules, policies, and programs in order to assist in:

(A) Strengthening procedures and practices which lessen the possibility of adverse outcomes on the health, safety, welfare, and rehabilitation of offenders;

(B) Providing information regarding the corrections system to offenders and their families;

(C) Identifying issues and potential responses regarding the corrections system for the department, governor, and legislature to consider; and

(D) Providing information to interested members of the public regarding the state's correctional system, including information on the rights and responsibilities of offenders and their family members.

(i) Within the amounts provided in this section the department of corrections, with assistance from the department of social and health services, shall identify and evaluate alternatives for closure of the McNeil Island corrections center. The evaluation shall include capital and operating costs for ten years. Alternatives shall include, but may not be limited to:

(i) Continued operation of McNeil Island corrections center and the special commitment center, assuming no change in capacity at either institution;

(ii) Construct or acquire and operate correctional institution facilities to replace the offender capacity at McNeil Island corrections center; and

(iii) Closure of McNeil Island corrections center. The department of social and health services would assume sole responsibility for providing the transportation, operations, utilities, and other infrastructure associated with continued operation of the special commitment center on McNeil Island.

The department shall report to the office of financial management and legislative fiscal committees by December 31, 2008.

(j) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement Engrossed Second Substitute House Bill No. 2712 (criminal street gangs). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(2) CORRECTIONAL OPERATIONS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$617,042,000~~))
$601,402,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$664,710,000~~))
$647,718,000
General Fund—Federal Appropriation . . . . . ((~~$3,490,000~~))
$4,157,000
Public Safety and Education Account—State
Appropriation (FY 2008). $1,050,000
Public Safety and Education Account—State
Appropriation (FY 2009). $1,350,000
Washington Auto Theft Prevention Authority Account—
State Appropriation $1,338,000
Violence Reduction and Drug Enforcement
Account—State Appropriation (FY 2008) $1,492,000
Violence Reduction and Drug Enforcement
Account—State Appropriation (FY 2009) $1,492,000
Pension Funding Stabilization Account—State
Appropriation. $11,800,000
TOTAL APPROPRIATION . . . . . ((~~$1,301,364,000~~))
$1,271,799,000

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

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as a recovery of costs.

(b) The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.

(c) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(d) During the 2007-09 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors: (i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(e) The Harborview medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department has negotiated with other community hospitals in Washington state.

(f) $358,000 of the Washington auto theft prevention authority account—state appropriation for fiscal year 2008 and $980,000 of the Washington auto theft prevention authority account—state appropriation for fiscal year 2009 are

provided solely for the implementation of Engrossed Third Substitute House Bill No. 1001 (auto theft). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(g) $22,000 of the general fund—state appropriation for fiscal year 2008 and $22,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute House Bill No. 1097 (vulnerable adults). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(h) $22,000 of the general fund—state appropriation for fiscal year 2008 and $22,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute House Bill No. 1319 (correctional agency employee). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(i) $87,000 of the general fund—state appropriation for fiscal year 2008 and $87,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of House Bill No. 1592 (sentence review board). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(j) $544,000 of the general fund—state appropriation for fiscal year 2008 and $496,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for development of individual reentry plans to prepare offenders for release into the community as generally described in Engrossed Substitute Senate Bill No. 6157 (offender recidivism). Individual reentry plans shall be based on an assessment of the offender using a standardized and comprehensive tool. The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements. The individual reentry plan shall, at a minimum, include:

(i) A plan to maintain contact with the inmate's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate;

(ii) A description of the offender's education, certifications, work experience, skills, and training; and

(iii) A plan for the offender during the period of incarceration through reentry into the community that addresses the needs of the offender including education, employment, substance abuse treatment, mental health treatment, and family reunification. The individual reentry plan shall be updated as appropriate during the period of incarceration, and prior to the inmate's release to address public safety concerns, consistency with the offender risk management level assigned by the department, housing, and connecting with a community justice center in the area in which the offender will be residing, if a community justice center is located in that area.

(iv) If the appropriation in this subsection is not sufficient for this program, the department shall prioritize the use of available funds.

(3) COMMUNITY SUPERVISION

General Fund—State Appropriation (FY 2008) . . . . . ((~~$129,063,000~~))
$133,157,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$140,462,000~~))
$145,956,000

General Fund—Federal Appropriation $416,000
Public Safety and Education Account—State
Appropriation (FY 2008) . . . . . ((~~$9,317,000~~))
$9,319,000
Public Safety and Education Account—State
Appropriation (FY 2009) . . . . . ((~~$9,680,000~~))
$9,370,000
Pension Funding Stabilization Account—State
Appropriation $2,800,000
TOTAL APPROPRIATION . . . . . ((~~$291,322,000~~))
$301,018,000

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

(a) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) For the acquisition of properties and facilities, the department of corrections is authorized to enter into financial contracts, paid for from operating resources, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. This authority applies to the following: Lease-develop with the option to purchase or lease-purchase work release beds in facilities throughout the state for $8,561,000.

(c) $1,167,000 of the general fund—state appropriation for fiscal year 2008 and $2,295,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the establishment and operation of community justice centers by the department as generally described in Engrossed Substitute Senate Bill No. 6157 (offender recidivism). At a minimum, a community justice center shall include:

(i) A violator program to allow the department to utilize a range of available sanctions for offenders who violate conditions of their supervision;

(ii) An employment opportunity program to assist an offender in finding employment;

(iii) On-site services or resources for connecting offenders with services such as mental health and substance abuse treatment, transportation, training, family reunification, and community services; and

(iv) The services of a transition coordinator to facilitate connections between the former offender and the community. The transition coordinator shall provide information to former offenders regarding services available to them in the community including, but not limited to housing assistance, employment assistance, education, vocational training, parent education, financial literacy, treatment for substance abuse, mental health, anger management, and shall assist offenders in their efforts to access needed services.

(v) If the appropriation in this subsection is not sufficient for this program, the department shall prioritize the use of available funds.

(4) CORRECTIONAL INDUSTRIES
General Fund—State Appropriation (FY 2008) . . . . . ((~~$987,000~~))

$1,001,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,347,000~~))
$2,357,000
TOTAL APPROPRIATION . . . . . ((~~$3,334,000~~))
$3,358,000

The appropriations in this subsection are subject to the following conditions and limitations: ((~~$110,000~~)) $124,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$110,000~~)) $132,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS
General Fund—State Appropriation (FY 2008) . . . . . ((~~$35,026,000~~))
$35,036,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$35,175,000~~))
$35,192,000
TOTAL APPROPRIATION . . . . . ((~~$70,201,000~~))
$70,228,000

The appropriations in this subsection are subject to the following conditions and limitations: $35,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for expenditures related to the *Farrakhan v. Locke* litigation.

***Sec. 224 was partially vetoed. See message at end of chapter.**

Sec. 225. 2007 c 522 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SERVICES FOR THE BLIND
General Fund—State Appropriation (FY 2008) $2,566,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,636,000~~))
$2,608,000
General Fund—Federal Appropriation . . . . . ((~~$17,702,000~~))
$17,584,000
General Fund—Private/Local Appropriation $20,000
TOTAL APPROPRIATION . . . . . ((~~$22,924,000~~))
$22,778,000

The appropriations in this subsection are subject to the following conditions and limitations: $4,000 of the general fund—state appropriation for fiscal year 2008 and $4,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for an adjustment to the agency lease rate for space occupied and parking in the Tacoma Rhodes center. The department of general administration shall increase lease rates to meet the cash gain/loss break-even point for the Tacoma Rhodes center effective July 1, 2007.

Sec. 226. 2007 c 522 s 225 (uncodified) is amended to read as follows:

FOR THE SENTENCING GUIDELINES COMMISSION
General Fund—State Appropriation (FY 2008) $937,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$959,000~~))

$1,233,000
TOTAL APPROPRIATION . . . . . ((~~$1,896,000~~))
$2,170,000

The appropriations in this section are subject to the following conditions and limitations: $295,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Substitute Senate Bill No. 6596 (sex offender policy board). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

Sec. 227. 2007 c 522 s 226 (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

General Fund—State Appropriation (FY 2008) $60,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$60,000~~))
$282,000
General Fund—Federal Appropriation . . . . . ((~~$265,906,000~~))
$265,114,000
General Fund—Private/Local Appropriation . . . . . ((~~$33,877,000~~))
$33,578,000
Unemployment Compensation Administration Account—
Federal Appropriation . . . . . ((~~$253,644,000~~))
$252,925,000
Administrative Contingency Account—State
Appropriation. . . . . ((~~$31,273,000~~))
$26,131,000
Employment Service Administrative Account—State
Appropriation. . . . . ((~~$32,055,000~~))
$33,843,000
Family Leave Insurance Account—State Appropriation $6,218,000
TOTAL APPROPRIATION . . . . . ((~~$616,875,000~~))
$618,151,000

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

(1) $4,578,000 of the unemployment compensation administration account—federal appropriation is provided from funds made available to the state by section 903(d) of the social security act (Reed Act). These funds are authorized to provide direct services to unemployment insurance claimants and providing job search review.

(2) $2,300,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the social security act (Reed Act). This amount is authorized to continue implementation of chapter 4, Laws of 2003 2nd sp. sess. and for implementation costs relating to chapter 133, Laws of 2005 (unemployment insurance).

(3) ((~~$12,348,000~~)) $23,162,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the social security act (Reed Act). This amount is authorized to continue current unemployment insurance functions and department services to employers and job seekers.

(4) $372,000 of the administrative contingency account—state appropriation is provided solely to implement Substitute Senate Bill No. 5653 (self-employment). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(5) $12,054,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the social security act (Reed act). This amount is authorized to fund the unemployment insurance tax information system (TAXIS) technology initiative for the employment security department.

(6) $430,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the social security act (Reed act). This amount is authorized to replace high-risk servers used by the unemployment security department.

(7) $503,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the social security act (Reed act). This amount is authorized to provide a system to track computer upgrades and changes for the unemployment security department.

(8) $183,000 of the unemployment compensation administration account—federal appropriation is provided from the amounts made available to the state by section 903(d) of the social security act (Reed Act). This amount is authorized to conduct a feasibility study to integrate job search data systems.

(9) $2,331,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the social security act (Reed Act). This amount is authorized for hardware and software to ensure the ongoing, reliable operation of the telecenters.

(10) $488,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the social security act (Reed Act). This amount is authorized for the relocation of the WorkSource office in Lakewood.

(11) $6,218,000 of the family leave insurance account—state appropriation is provided solely for implementation of the family leave insurance program.

(a) The amount provided in this subsection assumes that, in developing the information technology systems to support the payment of benefits, the department will incorporate the claim filing and benefit payment efficiencies recommended by the joint legislative task force on family leave insurance in Part III of its final report dated January 23, 2008, including:

(i) Eliminating the option for awarding attorney fees and costs for administrative hearings;

(ii) Authorizing claims for benefits to be filed in the six-week period beginning on the first day of the calendar week in which the individual is on family leave;

(iii) Not requiring claimants to verify the birth of a child or the placement of a child for adoption;

(iv) Including an attestation from the claimant that written notice has been provided to the employer of the intention to take family leave; and

(v) Not deducting and withholding federal income taxes from benefit payments.

(b) In addition, the department shall incorporate the following claim filing and benefit payment efficiencies:

(i) Define "qualifying year" to mean the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar immediately preceding the first day of the application year;

(ii) Allow individuals to file a claim for benefits in the six-week period beginning on the first day of the calendar year in which the individual is on family leave; and

(iii) After an initial family leave insurance benefit is paid, subsequent payments must be made biweekly, rather than semimonthly, thereafter.

(12) $222,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement Engrossed Second Substitute House Bill No. 2815 (greenhouse gas emissions). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(13) $155,000 of the unemployment compensation administration account—federal appropriation is provided solely to implement Second Substitute Senate Bill No. 6732 (construction industry). If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

PART III
NATURAL RESOURCES

Sec. 301. 2007 c 522 s 301 (uncodified) is amended to read as follows:

FOR THE COLUMBIA RIVER GORGE COMMISSION

General Fund—State Appropriation (FY 2008) $524,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$548,000~~))
$537,000
General Fund—Federal Appropriation $9,000
General Fund—Private/Local Appropriation . . . . . ((~~$1,056,000~~))
$1,045,000
TOTAL APPROPRIATION . . . . . ((~~$2,137,000~~))
$2,115,000

***Sec. 302.** 2007 c 522 s 302 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

General Fund—State Appropriation (FY 2008) . . . . . ((~~$50,030,000~~))
$50,109,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$49,941,000~~))
$51,827,000
General Fund—Federal Appropriation . . . . . ((~~$83,365,000~~))
$83,017,000
General Fund—Private/Local Appropriation . . . . . ((~~$13,648,000~~))
$13,618,000
Special Grass Seed Burning Research
Account—State Appropriation $14,000
Reclamation Account—State Appropriation . . . . . ((~~$4,073,000~~))
$4,207,000
Flood Control Assistance Account—State Appropriation . . . . . ((~~$3,961,000~~))
$4,151,000

Aquatic Lands Enhancement Account—State Appropriation $400,000
State Emergency Water Projects Revolving
Account—State Appropriation $390,000
Waste Reduction/Recycling/Litter
Control—State Appropriation . . . . . ((~~$19,701,000~~))
$19,607,000
State Drought Preparedness—State Appropriation. . . . . ((~~$117,000~~))
$115,000
State and Local Improvements Revolving Account
(Water Supply Facilities)—State Appropriation . . . . . ((~~$425,000~~))
$421,000
Vessel Response Account—State Appropriation . . . . . ((~~$1,438,000~~))
$1,649,000
Freshwater Aquatic Algae Control Account—State
Appropriation. $509,000
Site Closure Account—State Appropriation. . . . . ((~~$702,000~~))
$694,000
Water Quality Account—State Appropriation
(FY 2008). . . . . ((~~$16,490,000~~))
$15,137,000
Water Quality Account—State Appropriation
(FY 2009). . . . . ((~~$15,894,000~~))
$17,086,000
Wood Stove Education and Enforcement Account—State
Appropriation. . . . . ((~~$373,000~~))
$370,000
Worker and Community Right-to-Know Account—State
Appropriation. . . . . ((~~$2,269,000~~))
$2,247,000
State Toxics Control Account—State Appropriation . . . . . ((~~$98,184,000~~))
$99,383,000
State Toxics Control Account—Private/Local
Appropriation. $381,000
Local Toxics Control Account—State Appropriation. . . . . ((~~$19,154,000~~))
$20,952,000
Water Quality Permit Account—State Appropriation . . . . . ((~~$38,900,000~~))
$37,101,000
Underground Storage Tank Account—State Appropriation . . . . . ((~~$3,777,000~~))
$3,750,000
((~~Environmental Excellence Account—State Appropriation . . . . . $504,000~~))
Biosolids Permit Account—State Appropriation . . . . . ((~~$1,410,000~~))
$1,396,000
Hazardous Waste Assistance Account—State
Appropriation. . . . . ((~~$5,902,000~~))
$5,834,000
Air Pollution Control Account—State Appropriation . . . . . ((~~$6,328,000~~))
$6,306,000
Oil Spill Prevention Account—State Appropriation . . . . . ((~~$12,614,000~~))
$12,519,000

Air Operating Permit Account—State Appropriation . . . . . ((~~$3,266,000~~))
$2,780,000
Freshwater Aquatic Weeds Account—State Appropriation . . . . . ((~~$1,697,000~~))
$1,690,000
Oil Spill Response Account—State Appropriation $7,078,000
Metals Mining Account—State Appropriation. $14,000
Water Pollution Control Revolving Account—State
Appropriation. . . . . ((~~$469,000~~))
$464,000
Water Pollution Control Revolving Account—Federal
Appropriation. . . . . ((~~$2,297,000~~))
$2,271,000
Columbia River Water Delivery Account—State
Appropriation. $2,150,000
TOTAL APPROPRIATION . . . . . ((~~$465,315,000~~))
$469,637,000

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

(1) $170,000 of the oil spill prevention account—state appropriation is provided solely for a contract with the University of Washington's sea grant program to continue an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(2) $256,000 of the general fund—state appropriation for fiscal year 2008, $209,000 of the general fund—state appropriation for fiscal year 2009, and $200,000 of the general fund—private local appropriation are provided solely to implement activities associated with a regional haze program. Funds shall be collected and expended in accordance with the terms of the contract entered into with affected businesses and the department of ecology.

(3) $2,000,000 of the local toxics control account—state appropriation is provided solely to local governments outside of Puget Sound for municipal storm water programs, including but not limited to, implementation of phase II municipal storm water permits, source control for toxics in association with cleanup of contaminated sediment sites, and source control programs for shellfish protection districts where storm water is a significant contributor.

(4) Fees approved by the department of ecology in the 2007-09 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055. Pursuant to RCW 43.135.055, the department is further authorized to increase the following fees in fiscal year 2009 as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Wastewater discharge permit, not more than 5.57 percent; dam periodic inspection permit, not more than 5.57 percent; dam construction permit, not more than 5.57 percent; and mixed waste management, not more than 14.14 percent.

(5) $1,000,000 of the general fund—state appropriation for fiscal year 2008 and $927,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to improve the performance of wetland mitigation. Of this amount, $55,000 of the general fund—state appropriation for fiscal year 2008 and $55,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support a wetland in Whatcom county. The program will

engage local, state, and federal agencies, private investors, property owners, and others in the creation of one or more wetland banks and other measures to protect habitat functions and values while accommodating urban growth in the region. Priority shall be given to state and local government partnerships for wetland characterization. The department shall issue a report of its findings and recommendations on how wetland mitigation success can be improved to the office of financial management and the appropriate policy committees of the legislature.

(6) $260,000 of the state toxics control account—state appropriation is provided solely to support pesticide container recycling activities in Washington.

(7) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a pilot project to provide grants to two local government jurisdictions located in the Puget Sound area to improve compliance with existing environmental laws. Grant funds shall be used for providing information on existing requirements, providing technical assistance necessary to comply on a voluntary basis, and taking enforcement action.

(8) $1,257,000 of the reclamation account—state appropriation is provided solely to implement Substitute Senate Bill No. 5881 (water power license fees). If the bill is not enacted by June 30, 2007, the amount provided in this section shall lapse.

(9) $694,000 of the underground storage tank account—state appropriation is provided solely to implement Substitute Senate Bill No. 5475 (underground storage tanks). If the bill is not enacted by June 30, 2007, the amount provided in this section shall lapse.

(10) $2,026,000 of the local toxics control account—state appropriation is provided solely for local governments located near hazardous waste clean-up sites, including Duwamish Waterway, Commencement Bay, and Bellingham Bay, to work with small businesses and citizens to safely manage hazardous and solid wastes to prevent the contamination.

(11) $876,000 of the state toxics control account and $876,000 of the local toxics control account are provided solely for public participation grants related to toxic cleanup sites within and around Puget Sound.

(12) ((~~$1,000,000~~)) $831,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$1,000,000~~)) $1,169,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement watershed plans. Of this amount, ((~~$110,000~~)) $313,650 of the general fund—state appropriation for fiscal year 2008 and ((~~$160,000~~)) $646,350 of the general fund—state appropriation for fiscal year 2009 are provided solely to support the implementation of the WRIA 1 watershed plan and the Bertrand watershed improvement district plan, including but not limited to implementation of the Nooksack River basin stream gauging program, study of the feasibility of a public utility district pipeline in the Bertrand watershed ((~~and $250,000 of the general fund—state appropriation for fiscal year 2008 and $350,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to study water storage and augmentation in the Bertrand watershed and $90,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for plan preparation and development in the Fishtrap watershed~~)), study and construction of water storage and augmentation in the Bertrand watershed, and

preparation and development of the next subbasin watershed plan agreed to by the Bertrand instream flow policy group.

(13) $75,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Second Substitute House Bill No. 2220 (shellfish). The department shall develop, by rule, guidelines for the appropriate siting and operation of geoduck aquaculture operations to be included in any master program under the shorelines management act. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(14) $15,000 of the general fund—state appropriation for fiscal year 2008 and $15,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for convening a stakeholder group to recommend establishing a sustainable statewide regional CBRNE/Hazmat response capability.

(15) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement key recommendations and actions identified in the "Washington's Ocean Action Plan: Enhancing Management of Washington State's Ocean and Outer Coast". The department shall provide a progress report on implementing this plan to the appropriate policy committees of the legislature by December 31, 2008.

(16) ((~~$300,000~~)) $464,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$300,000~~)) $136,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Engrossed Substitute Senate Bill No. 6001 (climate change). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(17) $75,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to oversee beach seaweed removal in the west Seattle Fauntleroy community. The department may spend up to $25,000 of this amount for its cost of administration.

(18) ((~~$405,000~~)) $693,000 of the state toxics control account is provided solely for implementation of Senate Bill No. 5421 (environmental covenants). If the bill is not enacted by June 30, 2007, the amount provided in this section shall lapse.

(19) $99,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a marshland study of key areas of salmon habitat along the Snohomish river estuary.

(20) $196,000 of the general fund—state appropriation for fiscal year 2008, $132,000 of the general fund—state appropriation for fiscal year 2009, and $19,000 of the oil spill prevention account appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, the department shall execute activities as described in Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership).

(21) $150,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the department to contract with the U.S. institute for environmental conflict resolution, a federal agency, to develop a pilot water management process with three federally recognized treaty Indian tribes.

$50,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the northwest Indian fisheries commission to help establish the pathway for the process in federal agencies.

(22) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to continue the pilot water pathways project through the remainder of the biennium. The department will work with the northwest Indian fisheries commission and the U.S. institute on environmental conflict resolution to find resolution on persistent water policy issues between tribes and nontribal entities.

(23) $319,000 of the general fund—state appropriation for fiscal year 2008 and $241,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6117 (reclaimed water). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(23)~~)) (24) $53,000 of the oil spill prevention account—state appropriation is provided solely for the implementation of Senate Bill No. 5552 (penalties for oil spills). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

((~~(24)~~)) (25) $50,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the department to convene a shellfish aquaculture regulatory committee, composed of a balanced representation from interested state regulatory agencies, Native American tribes, local governments and the environmental and shellfish farming communities. The group will be facilitated by the office of regulatory assistance and will address federal, state, and local regulatory issues related to shellfish farming.

(26) Within the appropriations provided in this section for the development of water supplies in the Columbia river basin, the department shall assist county governments located east of the crest of the Cascade mountain range that: Have an international border; or border a county with an international boundary and a county with four hundred thousand or more residents, to identify water supply projects to compete for funding from the Columbia river basin water management program. The department shall provide technical assistance as needed to further refine priority projects identified by these counties. The department shall consider and balance regional water supply needs in its funding allocation decisions made as a part of this program.

(27) $261,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the department to prepare, by June 30, 2009, a data gap analysis that includes a summary of historic and current monitoring of groundwater levels and water quality within each water resource inventory area (WRIA); an evaluation of the completeness and quality of the data and conclusions produced from such monitoring; priorities for enhanced groundwater monitoring where water levels and water quality are of concern; recommendations regarding quality controls and other protocols associated with data collection; a summary and compilation of existing studies of groundwater levels, water quality, and monitoring activities; and recommendations of components necessary to establish a comprehensive, statewide groundwater monitoring and assessment program and the funding necessary to implement the program.

(28) $50,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for coordinating with the University of Washington to assess the current energy profile of Washington state pulp and paper mills. The energy consumption and energy generation capability will be determined for both steam and electrical power. In addition, the sources and types of fuels used in various boilers will be assessed.

(29) $195,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to support a collaborative process to design a proposed comprehensive water management structure for the Walla Walla river basin. The proposed structure should address the allocation of functions, authorities, resource requirements, and issues associated with interstate watershed management of the basin. Invited participants should include but not be limited to the confederated tribes of the Umatilla Indian reservation; appropriate state agencies; and Walla Walla basin interests such as municipalities, irrigation districts, conservation districts, fisheries, agriculture, economic development, and environmental representatives. A report outlining the proposed governance and water management structure shall be submitted to the governor and the appropriate committees of the legislature by November 15, 2008.

(30) $333,000 of the state toxics control account—state appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 2647 (children's safe products). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(31) $256,000 of the general fund—state appropriation for fiscal year 2008 and $1,027,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for Engrossed Second Substitute House Bill No. 2815 (reducing greenhouse gases emissions in the Washington economy). In participating in the western climate initiative under Engrossed Second Substitute House Bill No. 2815, the director of the department shall seek to ensure that the design for a regional multisector market-based system confers equitable economic benefits and opportunities to electric utilities operating in Washington by having that system recognize at least the following: (a) Voluntary investments made by Washington utilities in energy efficiency measures; (b) emission reduction benefits that other state and provincial participants in the western climate initiative derive from consuming renewable energy generated in Washington; and (c) adverse impacts that climate change uniquely has upon the capabilities of hydroelectric power generation. Washington state's representatives to the western climate initiative process shall advocate for a regional multisector market-based design that addresses competitive disadvantages that could be experienced by in-region industries as compared to industries in states or countries that do not have greenhouse gas reduction programs that are substantively equivalent to the system designed under the western climate initiative process. If the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(32) $250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Second Substitute House Bill No. 3186 (beach management districts). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(33) The appropriations in this section provide specific funds to implement Second Substitute House Bill No. 3227 (Hood Canal water quality).

(34) Within the appropriations provided in this section the department shall ensure that standard statewide protocols for surface water monitoring are developed and included in status and trends monitoring to utilize information from other entities, including other state agencies, local governments, and volunteer groups.

(35)(a) $2,000,000 of the Columbia river water delivery account appropriation is provided solely for distribution to affected counties as defined in Engrossed Second Substitute Senate Bill No. 6874 (Columbia river water) to mitigate for negative impacts caused by releases of Lake Roosevelt water for the purposes described in that bill. The criteria for allocating these funds shall be developed by the department in consultation with affected local governments.

(b) $150,000 of the Columbia river water delivery account appropriation is provided solely for the department to retain a contractor to perform an independent analysis of legislative options to protect rural communities in northeast Washington from disproportionate economic, agricultural, and environmental impacts when upstream water rights are purchased and transferred for use, or idled and used as mitigation, in a downstream watershed or county. Before retaining a contractor, the department shall consult with affected counties as defined in Engrossed Second Substitute Senate Bill No. 6874 (Columbia river water). The contractor selected shall conduct the independent analysis and develop a report describing options and recommended actions. The department of ecology shall provide the report to the appropriate committees of the legislature by December 1, 2008.

(c) If Engrossed Second Substitute Senate Bill No. 6874 (Columbia river water delivery) is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(36) $210,000 of the local toxics control account—state appropriation is provided solely to clean up naturally occurring asbestos from Swift Creek.

(37) $85,000 of the state toxics control account—state appropriation is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6502 (release of mercury). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(38) $80,000 of the state toxics control account—state appropriation is provided solely for the department to create a stakeholder advisory committee to review and develop recommendations to help businesses achieve a fifty percent toxics reduction use goal. The committee shall: (a) Review and make recommendations to improve the effectiveness and delivery of technical assistance in pollution prevention planning; (b) develop recommendations for strategies to encourage moving away from "end-of-pipe" pollution reduction approaches to increase hazardous waste prevention throughout the state; and (c) review and make recommendations on revising the hazardous waste planning fee under RCW 70.95E.030, including opportunities to provide incentives that reward businesses for toxic use reduction successes in meeting a fifty percent toxics use reduction goal. The committee shall report its findings and recommendations to the fiscal and policy committees of the senate and house of representatives by November 1, 2008.

(39) $108,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Engrossed Substitute Senate Bill No. 6308 (relating

to climate change research, preparation, and adaptation). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(40) $70,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Substitute Senate Bill No. 6805 (relating to promoting farm and forest land preservation and environmental restoration through conservation markets). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 302 was partially vetoed. See message at end of chapter.**

***Sec. 303.** 2007 c 522 s 303 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

General Fund—State Appropriation (FY 2008) . . . . . ((~~$48,365,000~~))
$48,970,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$50,166,000~~))
$49,187,000
General Fund—Federal Appropriation . . . . . ((~~$4,545,000~~))
$5,731,000
General Fund—Private/Local Appropriation $73,000
Winter Recreation Program Account—State
Appropriation. . . . . ((~~$1,116,000~~))
$1,559,000
Off-Road Vehicle Account—State Appropriation . . . . . ((~~$238,000~~))
$234,000
Snowmobile Account—State Appropriation . . . . . ((~~$4,839,000~~))
$4,829,000
Aquatic Lands Enhancement Account—State
Appropriation. . . . . ((~~$365,000~~))
$363,000
Public Safety and Education Account—State
Appropriation (FY 2008). $23,000
Public Safety and Education Account—State
Appropriation (FY 2009). $24,000
Parks Renewal and Stewardship Account—State
Appropriation. . . . . ((~~$36,606,000~~))
$36,534,000
Parks Renewal and Stewardship Account—Private/Local
Appropriation. $300,000
TOTAL APPROPRIATION . . . . . ((~~$146,660,000~~))
$147,827,000

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

(1) Fees approved by the state parks and recreation commission in the 2007-09 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(2) $79,000 of the general fund—state appropriation for fiscal year 2008 and $79,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a grant for the operation of the Northwest avalanche center.

(3) $300,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for project scoping and cost estimating for the agency's 2009-11 capital budget submittal.

(4) $2,255,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for costs associated with relocating the commission's Tumwater headquarters office.

(5) $272,000 of the general fund—state appropriation for fiscal year 2008 and $271,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for costs associated with relocating the commission's eastern Washington regional headquarters office.

(6) $1,000,000 of the general fund—state appropriation for fiscal year 2008 and $1,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for replacing vehicles and equipment.

(7) $1,611,000 of the general fund—state appropriation for fiscal year 2008 and $1,428,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for planned and emergency maintenance of park facilities.

(8) $1,700,000 of the general fund—federal appropriation for fiscal year 2009 is provided solely for the recreational boating safety program.

(9) $954,000 of the general fund—state appropriation for fiscal year 2008 and $1,007,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the operations of Cama Beach state park.

(10) $25,000 of the general fund—state appropriation for fiscal year 2008 and $25,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Substitute Senate Bill No. 5219 (weather and avalanche center). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(11) $9,000 of the general fund—state appropriation for fiscal year 2008 and $9,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Substitute Senate Bill No. 5463 (forest fire protection). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(12) ((~~$42,000~~)) $9,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$42,000~~)) $9,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Substitute Senate Bill No. 5236 (public lands management). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(13) $264,000 of the general fund—state appropriation for fiscal year 2008 and $217,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to establish a pilot lifeguard program at Lake Sammamish and Nolte state parks. The department shall complete a comprehensive risk analysis to determine if expansion of the lifeguard program or other drowning risk reduction measures should be implemented. The department shall report its findings to the office of financial management and the appropriate committees of the legislature by July 1, 2009.

(14) ((~~$232,000~~)) $455,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$233,000~~)) $10,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the development of a long-range plan for Fort Worden state park, including architectural and site design guidelines, business and operations implementation, site and facilities use

plan, and for the department to convene a task force to recommend alternative governance structures for the park.

(15) $1,600,000 of the parks renewal stewardship account—state appropriation is provided solely for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship and other state park purposes, pursuant to Substitute House Bill No. 2275 (raising funds for state parks). Expenditures from the amount provided in this subsection shall not exceed actual revenues received under Substitute House Bill No. 2275. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(16) $40,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute House Bill No. 2514 (orca whale protection). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(17) $58,000 of the general fund—state appropriation for fiscal year 2008 and $73,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for one-time financial assistance to the northwest weather and avalanche center, administered by the United States forest service, to keep the center operational through the remainder of the biennium.

(18) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for grants to the Mount Tahoma trails association to assist with purchase of snow equipment.

(19) $120,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Substitute Senate Bill No. 5010 (foster home pass). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 303 was partially vetoed. See message at end of chapter.**

Sec. 304. 2007 c 522 s 304 (uncodified) is amended to read as follows:

FOR THE ((~~INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION~~)) RECREATION AND CONSERVATION FUNDING BOARD

General Fund—State Appropriation (FY 2008) $1,557,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,600,000~~)) $1,592,000
General Fund—Federal Appropriation . . . . . ((~~$18,409,000~~)) $18,382,000
General Fund—Private/Local Appropriation $250,000
Aquatic Lands Enhancement Account—State Appropriation . . . . . ((~~$277,000~~)) $275,000
Water Quality Account—State Appropriation (FY 2008) $100,000
Water Quality Account—State Appropriation (FY 2009) $100,000
Firearms Range Account—State Appropriation $37,000
Recreation Resources Account—State Appropriation . . . . . ((~~$2,819,000~~)) $2,773,000
Nonhighway and Off-Road Vehicles Activities Program Account—State Appropriation $1,004,000
Boating Activities Account—State Appropriation $2,000,000

TOTAL APPROPRIATION . . . . . ((~~$28,153,000~~))
$28,070,000

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

(1) $16,025,000 of the general fund—federal appropriation is provided solely for implementation of the forest and fish agreement rules. These funds shall be allocated to the department of natural resources and the department of fish and wildlife.

(2) $22,000 of the general fund—state appropriation for fiscal year 2008 and $22,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, the department shall execute activities as described in Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership).

(3) $2,000,000 of the boating activities account—state appropriation is provided solely to implement Substitute House Bill No. 1651 (boating activities). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

Sec. 305. 2007 c 522 s 305 (uncodified) is amended to read as follows:

FOR THE ENVIRONMENTAL HEARINGS OFFICE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$1,134,000~~))
$1,144,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,161,000~~))
$1,142,000
TOTAL APPROPRIATION . . . . . ((~~$2,295,000~~))
$2,286,000

The appropriations in this section are subject to the following condition and limitation: $10,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for employee retirement buyout costs.

Sec. 306. 2007 c 522 s 306 (uncodified) is amended to read as follows:

FOR THE CONSERVATION COMMISSION

General Fund—State Appropriation (FY 2008) $2,889,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,913,000~~))
$3,107,000
General Fund—Federal Appropriation $1,178,000
Water Quality Account—State Appropriation (FY 2008) . . . . . ((~~$7,301,000~~))
$5,301,000
Water Quality Account—State Appropriation (FY 2009) . . . . . ((~~$7,326,000~~))
$5,316,000
TOTAL APPROPRIATION . . . . . ((~~$21,607,000~~))
$17,791,000

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

(1) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for supplementary basic funding grants to the state's lowest-

income conservation districts. The supplementary grant process shall be structured to aid recipients in becoming financially self-sufficient in the future.

(2) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Substitute Senate Bill No. 5108 (office of farmland preservation). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(3) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the pioneers in conservation program to provide grants through a competitive process to agricultural landowners for projects that benefit fish and wildlife restoration and farm operations. Grants must be matched by an equal amount or more from nonstate sources with priority for projects identified in the Puget Sound Chinook salmon recovery plan and the Puget Sound partnership strategy.

(4) $78,000 of the general fund—state appropriation for fiscal year 2008 and $72,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Engrossed Second Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, the department shall execute activities as described in Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership).

(5) $250,000 of the water quality account—state appropriation for fiscal year 2009 is provided solely for livestock nutrient program cost share for the poultry industry.

(6) $35,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for support of conservation resource management.

(7) $174,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Substitute Senate Bill No. 6805 (conservation markets). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 307.** 2007 c 522 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$55,453,000~~)) $56,158,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$52,743,000~~)) $54,319,000

General Fund—Federal Appropriation . . . . . ((~~$52,666,000~~)) $52,273,000

General Fund—Private/Local Appropriation . . . . . ((~~$37,447,000~~)) $37,189,000

Off-Road Vehicle Account—State Appropriation . . . . . ((~~$416,000~~)) $413,000

Aquatic Lands Enhancement Account—State Appropriation. . . . . ((~~$6,070,000~~)) $6,022,000

Public Safety and Education Account—State Appropriation (FY 2008). $268,000

Public Safety and Education Account—State Appropriation (FY 2009) . . . . . ((~~$325,000~~)) $323,000
Recreational Fisheries Enhancement—State Appropriation . . . . . ((~~$3,628,000~~)) $3,600,000
Warm Water Game Fish Account—State Appropriation . . . . . ((~~$3,024,000~~)) $2,992,000
Eastern Washington Pheasant Enhancement Account—State Appropriation . . . . . ((~~$754,000~~)) $753,000
Aquatic Invasive Species Enforcement Account—State Appropriation $204,000
Aquatic Invasive Species Prevention Account—State Appropriation $842,000
Wildlife Account—State Appropriation . . . . . ((~~$66,508,000~~)) $63,589,000
Wildlife Account—Federal Appropriation . . . . . ((~~$34,552,000~~)) $34,279,000
Wildlife Account—Private/Local Appropriation . . . . . ((~~$13,288,000~~)) $13,187,000
Game Special Wildlife Account—State Appropriation . . . . . ((~~$1,991,000~~)) $2,478,000
Game Special Wildlife Account—Federal Appropriation . . . . . ((~~$8,923,000~~)) $8,911,000
Game Special Wildlife Account—Private/Local Appropriation . . . . . ((~~$486,000~~)) $483,000
Water Quality Account—State Appropriation (FY 2008) $160,000
Water Quality Account—State Appropriation (FY 2009) $160,000
((~~Environmental Excellence Account—State Appropriation . . . . . $15,000~~))
Regional Fisheries Salmonid Recovery Account—Federal Appropriation . . . . . ((~~$2,751,000~~)) $5,001,000
Oil Spill Prevention Account—State Appropriation . . . . . ((~~$1,104,000~~)) $1,093,000
Oyster Reserve Land Account—State Appropriation . . . . . ((~~$417,000~~)) $416,000
Wildlife Rehabilitation Account—State Appropriation . . . . . ((~~$352,000~~)) $270,000
TOTAL APPROPRIATION . . . . . ((~~$344,547,000~~)) $345,383,000

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

(1) The department shall use the department of printing for printing needs. Funds provided in this section may not be used to staff or fund a stand-alone printing operation.

(2) $175,000 of the general fund—state appropriation for fiscal year 2008 and $175,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(3) The department shall support the activities of the aquatic nuisance species coordination committee to foster state, federal, tribal, and private cooperation on aquatic nuisance species issues. The committee shall strive to prevent the introduction of nonnative aquatic species and to minimize the spread of species that are introduced.

(4) The department shall emphasize enforcement of laws related to protection of fish habitat and the illegal harvest of salmon and steelhead. Within the amount provided for the agency, the department shall provide support to the department of health to enforce state shellfish harvest laws.

(5) $400,000 of the general fund—state appropriation for fiscal year 2008 and $400,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a state match to support the Puget Sound nearshore partnership between the department and the U.S. army corps of engineers.

(6) The department shall assist the office of regulatory assistance in implementing activities consistent with the governor's regulatory improvement program. The department shall support and provide expertise to facilitate, coordinate, and simplify citizen and business interactions so as to improve state regulatory processes involving state, local, and federal stakeholders.

(7) $634,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for operations and fish production costs at department-operated Mitchell act hatchery facilities.

(8) ((~~Within the amount provided for the agency, the department shall implement a joint management and collaborative enforcement agreement with the confederated tribes of the Colville and the Spokane tribe.~~)) $609,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the department to implement a pilot project with the Confederated Tribes of the Colville Reservation to develop expanded recreational fishing opportunities on Lake Rufus Woods and its northern shoreline and to conduct joint enforcement of lake fisheries on Lake Rufus Woods and adjoining waters, pursuant to state and tribal intergovernmental agreements developed under the Columbia River water supply program.

(a) For the purposes of the pilot project:

(i) A fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods;

(ii) The Colville Tribes have agreed to provide to holders of its nontribal member fishing permits a means to demonstrate that fish in their possession were lawfully taken in Lake Rufus Woods;

(iii) A Colville tribal member identification card shall satisfy the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods;

(iv) The department and the Colville Tribes shall jointly designate fishing areas on the north shore of Lake Rufus Woods for the purposes of enhancing access to the recreational fisheries on the lake; and

(v) The Colville Tribes have agreed to recognize a fishing license issued under RCW 77.32.470 or RCW 77.32.490 as satisfying the nontribal member

fishing permit requirements of Colville tribal law on the reservation portion of the waters of Lake Rufus Woods and at designated fishing areas on the north shore of Lake Rufus Woods;

(b) The director, in collaboration with the Colville Tribes, shall provide an interim report to the office of financial management and the appropriate committees of the legislature by December 31, 2008. The report shall describe the status of the pilot project, and make recommendations as needed to fully implement the project, pursuant to the state and tribal agreement on Lake Rufus Woods.

(9) $182,000 of the general fund—state appropriation for fiscal year 2008 and $182,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to continue the ballast water management program in Puget Sound and expand the program to include the Columbia river and coastal ports.

(10) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for hatchery facility maintenance improvements.

(11) $440,000 of the general fund—state appropriation for fiscal year 2008 and $409,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for estimates of juvenile abundance of federally listed salmon and steelhead populations. The department shall report to the office of financial management and the appropriate fiscal committees of the legislature with a letter stating the use and measurable results of activities that are supported by these funds.

(12) $125,000 of the general fund—state appropriation for fiscal year 2008 and $125,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the strategic budget and accountability program.

(13) $113,000 of the general fund—state appropriation for fiscal year 2008 and $113,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, the department shall execute activities as described in Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership).

(14) Prior to submitting its 2009-11 biennial operating and capital budget request related to state fish hatcheries to the office of financial management, the department shall contract with the hatchery scientific review group (HSRG) to review this request. This review shall: (a) Determine if the proposed requests are consistent with HSRG recommendations; (b) prioritize the components of the requests based on their contributions to protecting wild salmonid stocks and meeting the recommendations of the HSRG; and (c) evaluate whether the proposed requests are being made in the most cost effective manner. The department shall provide a copy of the HSRG review to the office of financial management and the appropriate legislative committees by October 1, 2008.

(15) $43,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the implementation of Substitute Senate Bill No. 5447 (coastal Dungeness crab). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(16) $4,000 of the general fund—state appropriation for fiscal year 2008 and $4,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute Senate Bill No. 5463 (forest

fire protection). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(17) $89,000 of the general fund—state appropriation for fiscal year 2008 and $89,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute Senate Bill No. 6141 (forest health). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(18) $204,000 of the aquatic invasive species enforcement account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5923 (aquatic invasive species). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(19) ((~~$42,000 of the general fund—state appropriation for fiscal year 2008 and $42,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute Senate Bill No. 5236 (public lands management). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.~~

~~(20)~~)) $352,000 of the wildlife rehabilitation account is provided solely for the implementation of Senate Bill No. 5188 (wildlife rehabilitation). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(21)~~)) (20) $77,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department of fish and wildlife to participate in the upper Columbia salmon recovery plan implementation, habitat conservation plan hatchery committees, and the priest rapids salmon and steelhead agreement hatchery technical committee.

((~~(22)~~)) (21)(a) Within existing funds, the department of fish and wildlife shall sell the upper 20-acre parcel of the Beebe springs property.

(b) Proceeds from the sale are to be used to develop the Beebe springs natural interpretive site. Up to $300,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the development of the Beebe springs natural interpretive site. The department shall not expend more than the amount received from the sale proceeds.

((~~(25)~~)) (22) $50,000 of the general fund—state appropriation for fiscal year 2008 and $49,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Substitute House Bill No. 2049 (marine resource committees). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(26)~~)) (23) $35,000 of the general fund—state appropriation for fiscal year 2008 and $35,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a study of introducing oxygen to the waters of Hood Canal. The study shall propose a location in a small marine area where a large number of bottom-dwelling fish species exist, and analyze the impact of injected dissolved oxygen on aquatic life. The department shall report to the appropriate committees of the legislature on the results of the study and recommend whether to proceed with a project to inject oxygen into Hood Canal.

((~~(27)~~)) (24) $1,310,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to replace state wildlife account funds for the engineering program and ((~~$1,190,000~~)) $610,000 of the general fund—state

appropriation for fiscal year 2008 are provided solely to replace state wildlife account funds for the hydraulic project permitting program, including the development of a permit fee schedule for the hydraulic project approval program to make the program self supporting. Fees may be based on factors relating to the complexity of the permit issuance. The fees received by the department must be deposited into the state wildlife account and shall be expended exclusively for the purposes of the hydraulic project permitting program. By December 1, 2008, the department shall provide a permit fee schedule for the hydraulic project approval program to the office of financial management and the appropriate committees of the legislature.

((~~(28)~~)) (25) $245,000 of the general fund—state appropriation for fiscal year 2008 and $245,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the department to work in cooperation with the department of natural resources to assist with the implementation of the wild horse coordinated resource management plan. Implementation may include providing grant funding to other state and nonstate entities as needed.

((~~(29)~~)) (26) $270,000 of the general fund—state appropriation for fiscal year 2008 and $270,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to develop siting guidelines for power generation facilities, provide technical assistance for permitting, support voluntary compliance with the guidelines, and to conduct bird and wildlife assessments on state lands most eligible for wind power leases.

((~~(31)~~)) (27) $50,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to implement Second Substitute House Bill No. 2220 (shellfish). The department shall develop and maintain an electronic database for aquatic farmer registration. If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(28) During the 2007-09 biennium, the department shall not make a permanent closure of any hatchery facility currently in operation.

(29) Within existing funds, the department shall continue implementing its capital program action plan dated September 1, 2007, including the purchase of the necessary maintenance and support costs for the capital programs and engineering tools. The department shall report to the office of financial management and the appropriate committees of the legislature, its progress in implementing the plan, including improvements instituted in its capital program, by September 30, 2008.

(30) $46,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute House Bill No. 2514 (orca whale protection). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(31) $24,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of House Bill No. 3186 (beach management districts). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(32) $50,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for compensation for damage to livestock by wildlife.

(33) The department shall complete an inventory of department purchased or leased lands acquired for mixed agriculture and fish and wildlife habitat and provide for each purchase or lease agreement the cost and date of the agreement,

the previous use of the land, any agreement or deed specifying continuing use of the land, and the current management cost and status of each parcel of purchased or leased lands. The department shall provide the inventory to the appropriate committees of the legislature by December 1, 2008.

(34) $289,000 of the general fund—state appropriation for fiscal year 2008 and $301,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for selective fisheries.

(35) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for removal of derelict gear in Washington waters.

(36) $135,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a review of the effectiveness of the department's existing hydraulic project approval process and environmental outcomes.

(37) $75,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement the 2008 Wiley Slough restoration project report to the legislature recommendation to establish a private farmland, public recreation partnership that would provide farmland preservation, waterfowl management, and public recreational access.

(38) $95,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Ebey Island property management costs.

(39)(a) A work group on Electron dam salmon passage is established, with members as provided in this subsection.

(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The department of fish and wildlife shall appoint at least one representative from each of the following entities: The department of fish and wildlife, Puyallup Tribe of Indians, and Puget Sound energy.

(b) The department of fish and wildlife shall provide staff support to the work group.

(c) The work group shall study possible enhancements for improving outbound juvenile salmon passage at Electron dam on the Puyallup river.

(d) Legislative members of the work group shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(e) The expenses of the work group, other than travel expenses of legislative members, shall be paid within existing funds from the department of fish and wildlife.

(f) The work group shall present its findings and recommendations to the appropriate committees of the legislature by January 1, 2009.

(g) This subsection expires January 1, 2009.

(40) As part of its 2009-11 biennial budget request, the department shall submit a report detailing the methodology for determining the value of payment in lieu of taxes as provided in RCW 79.70.130. At a minimum, the report will show the number of acres subject to the payment in lieu of taxes, the tax rates assumed by each affected county, and the resulting value of the state general fund obligation.

(41) Within the appropriations in this section, specific funding is provided to implement Engrossed Senate Bill No. 6821 (fish and wildlife information).

(42) $250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Second Substitute Senate Bill No. 6227 (outer coast marine resources committees). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(43) $115,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Substitute Senate Bill No. 6231 (marine protected areas). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(44) $46,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Substitute Senate Bill No. 6307 (Puget Sound marine managed areas). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 307 was partially vetoed. See message at end of chapter.**

***Sec. 308.** 2007 c 522 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$48,497,000~~)) $50,328,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$50,818,000~~)) $51,345,000

General Fund—Federal Appropriation . . . . . ((~~$25,235,000~~)) $27,855,000

General Fund—Private/Local Appropriation . . . . . ((~~$1,413,000~~)) $1,408,000

Forest Development Account—State Appropriation . . . . . ((~~$58,165,000~~)) $57,616,000

Off-Road Vehicle Account—State Appropriation . . . . . ((~~$4,318,000~~)) $4,196,000

Surveys and Maps Account—State Appropriation . . . . . ((~~$2,536,000~~)) $2,524,000

Aquatic Lands Enhancement Account—State Appropriation . . . . . ((~~$7,773,000~~)) $7,899,000

Resources Management Cost Account—State Appropriation . . . . . ((~~$96,177,000~~)) $95,326,000

Surface Mining Reclamation Account—State Appropriation . . . . . ((~~$3,295,000~~)) $3,280,000

Disaster Response Account—State Appropriation $5,000,000

Forest and Fish Support Account—State Appropriation . . . . . ((~~$4,000,000~~)) $7,000,000

Water Quality Account—State Appropriation (FY 2008) $1,348,000

Water Quality Account—State Appropriation (FY 2009) . . . . . ((~~$1,360,000~~)) $1,349,000

Aquatic Land Dredged Material Disposal Site Account—State Appropriation . . . . . ((~~$1,337,000~~)) $1,335,000

Natural Resources Conservation Areas Stewardship
Account—State Appropriation $34,000
State Toxics Control Account—State Appropriation $80,000
Air Pollution Control Account—State Appropriation . . . . . ((~~$570,000~~))
$567,000
Nonhighway and Off-Road Vehicle Activities Program
Account—State Appropriation $982,000
Derelict Vessel Removal Account—State Appropriation. . . . . ((~~$3,652,000~~))
$3,650,000
Agricultural College Trust Management Account—State
Appropriation. . . . . ((~~$2,064,000~~))
$2,047,000
TOTAL APPROPRIATION . . . . . ((~~$318,654,000~~))
$325,169,000

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

(1) ((~~$122,000~~)) $1,021,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$162,000~~)) $1,043,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(2) ((~~$11,463,000~~)) $13,920,000 of the general fund—state appropriation for fiscal year 2008, ((~~$13,792,000~~)) $13,542,000 of the general fund—state appropriation for fiscal year 2009, and $5,000,000 of the disaster response account—state appropriation are provided solely for emergency fire suppression. None of the general fund and disaster response account amounts provided in this subsection may be used to fund agency indirect and administrative expenses. Agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations.

(3) Fees approved by the department of natural resources and the board of natural resources in the 2007-09 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(4) $198,000 of the general fund—state appropriation for fiscal year 2008 and $199,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to work with appropriate stakeholders and state agencies in determining how privately owned lands, in combination with other land ownership such as public and tribal lands, contribute to wildlife habitat. The assessment will also determine how commercial forests, forest lands on the urban fringe, and small privately-owned forest lands that are managed according to Washington's forest and fish prescriptions, in combination with other forest management activities, function as wildlife habitat now and in the future.

(5) ((~~$2,500,000~~)) $5,000,000 of the forest and fish support account—state appropriation is provided solely for adaptive management, monitoring, and participation grants to tribes. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse. The department shall compile

the outcomes of these grants annually and submit them to the office of financial management by September 1 of 2008 and 2009.

(6) $400,000 of the forest and fish support account—state appropriation is provided solely for adaptive management, monitoring, and participation grants to the departments of ecology and fish and wildlife. If federal funding for this purpose is reinstated, this subsection shall lapse.

(7) The department shall prepare a feasibility study that analyzes applicable business processes and develops the scope, requirements, and alternatives for replacement of the department's current suite of payroll-support systems. The department shall use an independent consultant to assist with the study, and shall submit the completed analysis to the office of financial management, the department of personnel, and the department of information services by August 1, 2008.

(8) $600,000 of the general fund—state appropriation for fiscal year 2008 and $600,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to continue interagency agreements with the department of fish and wildlife and the department of ecology for forest and fish report field implementation tasks.

(9) All department staff serving as recreation-management trail stewards shall be noncommissioned.

(10) $112,000 of the aquatic lands enhancement account—state appropriation is provided solely for spartina eradication efforts. The department may enter into agreements with federal agencies to eradicate spartina from private lands that may provide a source of reinfestation to public lands.

(11) $40,000 of the general fund—state appropriation for fiscal year 2008 and $40,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to convene and staff a work group to study issues related to wildfire prevention and protection. The work group shall be composed of members representing rural counties in eastern and western Washington, fire districts, environmental protection organizations, industrial forest landowners, the agricultural community, the beef industry, small forest landowners, the building industry, realtors, the governor or a designee, the insurance commissioner or a designee, the office of financial management, the state fire marshal or a designee, the state building code council, and the commissioner or public lands or a designee. The work group shall issue a report of findings and recommendations to the appropriate committees of the legislature by August 1, 2008.

(12) $249,000 of the aquatic lands enhancement account—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, the department shall execute activities as described in Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership).

(13) $2,000,000 of the derelict vessel removal account—state appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6044 (derelict vessels). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(14) ((~~$42,000~~)) $34,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$42,000~~)) $34,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute Senate

Bill No. 5236 (public lands management). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(15) $14,000 of the forest development account—state appropriation and $52,000 of the resources management cost account—state appropriation are provided solely for implementation of Substitute Senate Bill No. 5463 (forest fire protection). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(16) ((~~$1,000,000~~)) $100,000 of the general fund—state appropriation for fiscal year 2008 ((~~is~~)) and $900,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the removal of one or two large floating dry docks off Lake Washington near the Port Quendall site in north Renton.

(17) $547,000 of the general fund—state appropriation for fiscal year 2008 and $726,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute Senate Bill No. 6141 (forest health). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(18) $22,000 of the surface mining reclamation account—state appropriation and $22,000 of the resources management cost account—state appropriation are provided solely for the implementation of Substitute Senate Bill No. 5972 (surface mining reclamation). If the bill is not enacted by June 30, 2007, the amounts in this subsection shall lapse.

(19) $125,000 of the general fund—state appropriation for fiscal year 2008, $125,000 of the general fund—state appropriation for fiscal year 2009, and $250,000 of the resource management cost account—state appropriation are provided solely to extend the 2005-2007 contract with the University of Washington college of forestry resources for additional research and technical assistance on the future of Washington forests. Reports shall be submitted by June 30, 2009, to the appropriate committees of the legislature on the following topics:

(a) An exploration of the potential markets for renewable energy from biomass from Washington forests, especially from material removed from eastern Washington forests as part of forest health improvement efforts. This exploration shall assess the feasibility of converting large amounts of underutilized forest biomass into useful products and green energy by providing required analyses needed to efficiently collect and deliver forest biomass to green energy end users. The role of transportation and processing infrastructure in developing markets for such material for both clean energy and value-added products shall be included in the exploration. The college shall coordinate with Washington State University efforts to identify what new biological, chemical, and engineering technologies are emerging for converting forest biomass to clean and efficient energy.

(b) Recommendations for the college's northwest environmental forum for retaining the highest valued working forest lands at risk of conversion to nonforest uses. These recommendations should include an examination of means to enhance biodiversity through strategic retention of certain lands, as well as economic incentives for landowners to retain lands as working forests and provide ecosystem services. The recommendations shall consider the health and value of the forest lands, the rate of loss of working forest lands in the area, the risk to timber processing infrastructure from continued loss of working forest

lands, and the multiple benefits derived from retaining working forest lands. The recommendations shall prioritize forest lands in the Cascade foothills, which include the area generally encompassing the nonurbanized lands within the Cascade mountain range and drainages lying between three hundred and three thousand feet above mean sea level, and located within Whatcom, Skagit, Snohomish, King, Pierce, Thurston, and Lewis counties.

(20) $25,000 of the general fund—state appropriation for fiscal year 2008 and $25,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for Chelan county, as the chair of the Stemilt partnership, to perform the following:

(a) Work with private and public land management entities to identify and evaluate land ownership possibilities;

(b) Allocate up to $10,000 to the department of fish and wildlife to perform technical studies, baseline assessments, environmental review, due diligence, and similar real estate evaluations; and

(c) Implement real estate transactions based on the results of the studies.

(21) $15,000 of the general fund—state appropriation for fiscal year 2008 and $15,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for health benefits to Washington conservation corps employees.

(22) $300,000 of the general fund—state appropriation for fiscal year 2008 and $300,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for staff support for the natural heritage program to integrate, analyze, and provide bird area information, and for state designations and mapping support, among other activities.

(23) $48,000 of the resource management cost account—state appropriation is provided solely to implement Second Substitute House Bill No. 2220 (shellfish). The department shall participate in a shellfish aquaculture regulatory committee, convened by the department of ecology. If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(24) $150,000 of the general fund—private/local appropriation is provided solely for the implementation of Substitute Senate Bill No. 5445 (cost-reimbursement agreements). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(25) $191,000 of the aquatic lands enhancement account—state appropriation is provided solely for the department to coordinate with the Puget Sound partnership to complete a final habitat conservation plan for state-owned aquatic lands and an environmental impact statement by June 2009.

(26) $251,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Second Substitute House Bill No. 2844 (urban forestry). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(27) $20,000 of the resource management cost account—state appropriation is provided solely for implementation of House Bill No. 3186 (beach management districts). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(28) $80,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to complete maps of lower Hood Canal, including subsurface geologic layers, lithology, digital layers, and maps to identify liquifiable sediments for hazard mitigation. The department shall provide a report to the

appropriate committees of the legislature on maps that were produced by December 1, 2008.

(29) As part of its 2009-11 biennial budget request, the department shall submit a report detailing the methodology for determining the value of payment in lieu of taxes as provided in RCW 79.70.130. At a minimum, the report will show the number of acres subject to the payment in lieu of taxes, the tax rates assumed by each affected county, and the resulting value of the state general fund obligation.

(30) $200,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to supplement other available funds for an analysis of whether forest practices rules (including rules for harvest on potentially unstable slopes, road construction and maintenance, and post-harvest slash treatment) effectively protect public resources and public safety from landslides, and other storm-related impacts. The analysis is to be accomplished using the forest practices board adaptive management process. The cooperative monitoring, evaluation, and research (CMER) committee of the adaptive management program shall submit a report of its preliminary analysis and conclusions to the appropriate committees of the legislature by December 1, 2008. The forest practices board shall submit a complete report of the CMER study on the effectiveness of current prescriptions and practices by June 30, 2009. This amount is ongoing solely to make improvements to the state's geological survey.

(31) $26,000 of the general fund—state appropriation for fiscal year 2008 and $71,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Substitute House Bill No. 2472 (recreational opportunities).

***Sec. 308 was partially vetoed. See message at end of chapter.**

Sec. 309. 2007 c 522 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$14,071,000~~)) $14,073,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$14,152,000~~)) $14,555,000

General Fund—Federal Appropriation . . . . . ((~~$11,441,000~~)) $11,329,000

General Fund—Private/Local Appropriation . . . . . ((~~$422,000~~)) $420,000

Aquatic Lands Enhancement Account—State Appropriation. . . . . ((~~$2,062,000~~)) $2,052,000

Energy Freedom Account—State Appropriation $500,000

Water Quality Account—State Appropriation (FY 2008) $604,000

Water Quality Account—State Appropriation (FY 2009) . . . . . ((~~$618,000~~)) $605,000

State Toxics Control Account—State Appropriation . . . . . ((~~$4,120,000~~)) $4,100,000

Water Quality Permit Account—State Appropriation . . . . . ((~~$61,000~~)) $59,000

TOTAL APPROPRIATION . . . . . ((~~$48,051,000~~)) $48,297,000

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

(1) Fees and assessments approved by the department in the 2007-09 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055. Pursuant to RCW 43.135.055, during fiscal year 2009 the department is further authorized to increase the apple pest certification assessment by up to $0.015 per hundredweight of fruit.

(2) Within funds appropriated in this section, the department, in addition to the authority provided in RCW 17.26.007, may enter into agreements with federal agencies to eradicate spartina from private lands that may provide a source of reinfestation to public lands.

(3) $78,000 of the general fund—state appropriation for fiscal year 2008 and $72,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, the department shall execute activities as described in Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership).

(4) $62,000 of the general fund—state appropriation for fiscal year 2008 and $63,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a study to evaluate the use of sugar beets for the production of biofuels.

(5) $275,000 of the general fund—state appropriation for fiscal year 2008 and $275,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for direct allocation, without deduction, to the Washington tree fruit research commission, established under chapter 15.26 RCW, for development and implementation of a pest management transition program to reduce the use by the tree fruit industry of certain organophosphate insecticides.

(6) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for distribution to counties with weed boards to control invasive weeds. Of this amount, $150,000 of the general fund—state appropriation for fiscal year 2008 and $150,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to control Japanese knotweed in counties with weed boards.

(7) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for pass through funding to the nonprofit opportunities industrialization center to provide training to agricultural workers related to farm skills, English as a second language, and other skills.

(8) $65,000 of the general fund—state appropriation for fiscal year 2009 and $35,000 of the aquatic lands enhancement account appropriation are provided solely for funding to the Pacific county noxious weed control board to continue its planning and implementation of spartina eradication activities.

(9) $290,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute Senate Bill No. 6483 (local food production). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(10) $57,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Second Substitute House Bill

No. 2815 (greenhouse gases emissions). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

Sec. 310. 2007 c 522 s 310 (uncodified) is amended to read as follows:

FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM

Pollution Liability Insurance Program Trust
Account—State Appropriation . . . . . ((~~$799,000~~))
$737,000

***Sec. 311.** 2007 c 522 s 311 (uncodified) is amended to read as follows:

FOR THE PUGET SOUND PARTNERSHIP

General Fund—State Appropriation (FY 2008) . . . . . ((~~$500,000~~))
$370,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$500,000~~))
$654,000
General Fund—Federal Appropriation . . . . . ((~~$1,155,000~~))
$2,655,000
General Fund—Private/Local Appropriation $2,500,000
Aquatic Lands Enhancement Account—State Appropriation $500,000
Water Quality Account—State Appropriation (FY 2008) . . . . . ((~~$3,458,000~~))
$3,660,000
Water Quality Account—State Appropriation (FY 2009) . . . . . ((~~$3,459,000~~))
$4,098,000
State Toxics Account—State Appropriation $1,710,000
TOTAL APPROPRIATION . . . . . ((~~$12,072,000~~))
$16,147,000

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

(1) ((~~$1,000,000~~)) $600,000 of the water quality account—state appropriation for fiscal year 2008, ((~~$1,000,000~~)) $1,400,000 of the water quality account—state appropriation for fiscal year 2009, and $2,500,000 of the general fund—private/local appropriation are provided solely for the education of citizens through attracting and utilizing volunteers to engage in activities that result in environmental benefits.

(2) $2,208,000 of the water quality account—state appropriation for fiscal year 2008, $2,209,000 of the water quality account—state appropriation for fiscal year 2009, ((~~$500,000~~)) $370,000 of the general fund—state appropriation for fiscal year 2008, ((~~$500,000~~)) $630,000 of the general fund—state appropriation for fiscal year 2009, and $1,155,000 of the general fund—federal appropriation are provided solely to implement Substitute Senate Bill No. 5372 (Puget Sound partnership). If the bill is not enacted by June 30, 2007, then $2,208,000 of the water quality account—state appropriation for fiscal year 2008, $2,209,000 of the water quality account—state appropriation for fiscal year 2009, $1,155,000 of the general fund—federal appropriation, $500,000 of the general fund—state appropriation for fiscal year 2008, and $500,000 of the general fund—state appropriation for fiscal year 2009 are appropriated to the office of the governor for operation of the Puget Sound action team.

(3) To implement the 2007-09 Puget Sound biennial plan required by Engrossed Substitute Senate Bill No. 5372 (Puget Sound partnership), funding is provided solely for Puget Sound recovery activities in the budgets of selected agencies and institutions of higher education, including the department of agriculture, department of community, trade and economic development, conservation commission, department of ecology, department of fish and wildlife, department of health, interagency committee for outdoor recreation, department of natural resources, state parks and recreation commission, the Puget Sound partnership, University of Washington, and Washington State University. During the 2007-09 biennium, moneys are provided solely for these agencies and institutions of higher education as provided for in LEAP document PSAT-2007.

(4) $305,000 of the water quality account—state appropriation for fiscal year 2009 and $305,000 of the general fund—federal appropriation are provided solely for an outcome monitoring program first for Puget Sound and Washington's coastline and then across the remaining salmon recovery regions across the state.

(5) $24,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for Substitute Senate Bill No. 6307 (Puget Sound marine managed areas). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(6) $852,000 of the water quality account—state appropriation for fiscal year 2008, $231,000 of the water quality account—state appropriation for fiscal year 2009, and $900,000 of the state toxics control account appropriation are provided solely for development and implementation of the 2020 action agenda.

***Sec. 311 was partially vetoed. See message at end of chapter.**

PART IV
TRANSPORTATION

Sec. 401. 2007 c 522 s 401 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

General Fund—State Appropriation (FY 2008) . . . . . ((~~$1,727,000~~))
$1,730,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,000,000~~))
$2,055,000

Architects' License Account—State Appropriation . . . . . ((~~$762,000~~))
$754,000

Cemetery Account—State Appropriation . . . . . ((~~$240,000~~))
$237,000

Professional Engineers' Account—State Appropriation . . . . . ((~~$3,484,000~~))
$3,457,000

Real Estate Commission Account—State Appropriation . . . . . ((~~$8,883,000~~))
$9,163,000

Master License Account—State Appropriation . . . . . ((~~$14,072,000~~))
$14,311,000

Uniform Commercial Code Account—State Appropriation . . . . . ((~~$3,086,000~~))
$3,063,000

Real Estate Education Account—State Appropriation $276,000

Real Estate Appraiser Commission Account—State Appropriation. . . . . ((~~$1,684,000~~)) $1,667,000
Business and Professions Account—State Appropriation . . . . . ((~~$10,190,000~~)) $11,680,000
Real Estate Research Account—State Appropriation. $320,000
Funeral Directors And Embalmers Account—State Appropriation. . . . . ((~~$597,000~~)) $588,000
Geologists' Account—State Appropriation. . . . . ((~~$57,000~~)) $56,000
Data Processing Revolving Account—State Appropriation. $29,000
Derelict Vessel Removal Account—State Appropriation. $31,000
TOTAL APPROPRIATION . . . . . ((~~$47,438,000~~)) $49,417,000

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

(1) In accordance with RCW 43.24.086, it is the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. For each licensing program covered by RCW 43.24.086, the department shall set fees at levels sufficient to fully cover the cost of administering the licensing program, including any costs associated with policy enhancements funded in the 2007-09 fiscal biennium. Pursuant to RCW 43.135.055, during the 2007-09 fiscal biennium, the department may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the costs of the licensing programs. Pursuant to RCW 43.135.055 and 43.24.086, the department is further authorized to increase the following fees as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Real estate appraiser certification, by not more than $30 in fiscal year 2009; real estate appraiser certification, original via reciprocity, by not more than $30 in fiscal year 2009; security guard license, original, by not more than $30 in fiscal year 2009; security guard license, renewal, by not more than $30 in 2009; and skills testing fee, a new fee may be established of not more than $100 for most drivers and $75 for nonprofit ECEAP or head start program.

(2) $230,000 of the master license account—state appropriation is provided solely for Engrossed Second Substitute House Bill No. 1461 (manufactured/mobile home dispute resolution). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(3) $64,000 of the business and professions account—state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 6437 (bail bond agents). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(4) $210,000 of the business and professions account—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 6606 (home inspectors). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(5) $87,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the department to conduct a review of the need for regulation of general and specialty contractors involved in the repair, alteration, or construction of single-family homes using the public interest criteria set forth in RCW 18.118.010 and as generally described in Second Substitute House Bill No. 3349 (residential contractors). By October 1, 2008, the department and the department of labor and industries shall report their findings to the appropriate committees of the legislature.

(6) The department of licensing and the department of health shall jointly review and report to the appropriate policy committees of the legislature by December 1, 2008, recommendations for implementing a process of holding in abeyance for up to six months following the conclusion of active duty service the expiration of, and currency requirements for, professional licenses and certificates for individuals who have been called to active duty military service.

(7) The higher education coordinating board, the department of licensing, and the department of health shall jointly review and report to the appropriate policy committees of the legislature by December 1, 2008, on barriers and opportunities for increasing the extent to which veterans separating from duty are able to apply skills sets and education required while in service to certification, licensure, and degree requirements.

Sec. 402. 2007 c 522 s 402 (uncodified) is amended to read as follows:

FOR THE STATE PATROL

General Fund—State Appropriation (FY 2008) . . . . . ((~~$38,903,000~~))
$38,968,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$37,102,000~~))
$31,262,000
General Fund—Federal Appropriation $5,629,000
General Fund—Private/Local Appropriation $1,223,000
Death Investigations Account—State Appropriation . . . . . ((~~$5,510,000~~))
$5,680,000
Public Safety and Education Account—State
Appropriation (FY 2008) $1,476,000
Public Safety and Education Account—State
Appropriation (FY 2009) . . . . . ((~~$1,532,000~~))
$2,687,000
Enhanced 911 Account—State Appropriation $572,000
County Criminal Justice Assistance Account—State
Appropriation . . . . . ((~~$3,155,000~~))
$3,133,000
Municipal Criminal Justice Assistance
Account—State Appropriation . . . . . ((~~$1,244,000~~))
$1,222,000
Fire Service Trust Account—State Appropriation $131,000
Disaster Response Account—State Appropriation $2,000
Fire Service Training Account—State Appropriation . . . . . ((~~$7,936,000~~))
$8,010,000
Aquatic Invasive Species Enforcement
Account—State Appropriation $54,000

State Toxics Control Account—State Appropriation . . . . . ((~~$502,000~~)) $495,000
Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2008) $3,007,000
Violence Reduction and Drug Enforcement Account—State Appropriation (FY 2009) $4,429,000
Fingerprint Identification Account—State Appropriation. . . . . ((~~$6,928,000~~)) $10,057,000
TOTAL APPROPRIATION . . . . . ((~~$119,505,000~~)) $118,037,000

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

(1) $233,000 of the general fund—state appropriation for fiscal year 2008, $282,000 of the general fund—state appropriation for fiscal year 2009, and $357,000 of the fingerprint identification account—state appropriation are provided solely for workload associated with implementation of the federal Adam Walsh Act — the Children's Safety and Violent Crime Reduction Act of 2006.

(2) In accordance with RCW 10.97.100 and chapter 43.43 RCW, the Washington state patrol is authorized to perform and charge fees for criminal history and background checks for state and local agencies, and nonprofit and other private entities and disseminate the records. It is the policy of the state of Washington that the fees cover, as nearly as practicable, the direct and indirect costs of performing criminal history and background checks activities. Pursuant to RCW 43.135.055, during the 2007-2009 fiscal biennium, the Washington state patrol may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the direct and indirect cost of the criminal history and background check activities.

(3) $200,000 of the fire service training account—state appropriation is provided solely for two FTEs in the office of the state director of fire protection to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(4) ((~~$250,000~~)) $350,000 of the fire service training account—state appropriation is provided solely to implement the provisions of Senate Bill No. 6119 (firefighter apprenticeship training program). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(5) $200,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for efforts to reduce the number of convicted offender biological samples awaiting DNA analysis.

(6) Within the appropriations in this section, specific funding is provided to implement Second Substitute Senate Bill No. 5642 (cigarette ignition).

PART V
EDUCATION

***Sec. 501.** 2007 c 522 s 501 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

(1) STATE AGENCY OPERATIONS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$21,815,000~~)) $22,161,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$22,147,000~~)) $25,223,000

General Fund—Federal Appropriation . . . . . ((~~$21,551,000~~)) $21,292,000

TOTAL APPROPRIATION . . . . . ((~~$65,513,000~~)) $68,676,000

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

(a) $11,920,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$12,362,000~~)) $12,019,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the operation and expenses of the office of the superintendent of public instruction. Within the amounts provided in this subsection, the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award. The students selected for the award must demonstrate understanding through completion of at least one of the classroom-based civics assessment models developed by the superintendent of public instruction, and through leadership in the civic life of their communities. The superintendent shall select two students from eastern Washington and two students from western Washington to receive the award, and shall notify the governor and legislature of the names of the recipients.

(b) $1,080,000 of the general fund—state appropriation for fiscal year 2008 and $815,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities. Within the amounts provided, the board shall implement the provisions of Second Substitute House Bill No. 1906 (improving mathematics and science education) for which it is responsible, including: (i) Develop a comprehensive set of recommendations for an accountability system; (ii) adopt high school graduation requirements aligned with international performance standards in mathematics and science and, in conjunction with the office of the superintendent of public instruction, identify no more than three curricula that are aligned with these standards; and (iii) review all requirements related to the high school diploma as directed by section 405, chapter 263, Laws of 2006.

(c) $4,779,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$6,033,000~~)) $6,248,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the professional educator standards board for the following:

(i) $930,000 in fiscal year 2008 and ((~~$1,070,000~~)) $1,284,000 in fiscal year 2009 are for the operation and expenses of the Washington professional educator standards board, including administering the alternative routes to certification program, pipeline for paraeducators conditional scholarship loan program, and the retooling to teach math conditional loan program. Within the amounts

provided in this subsection (1)(d)(i), the professional educator standards board shall: (A) Revise the teacher mathematics endorsement competencies and alignment of teacher tests to the updated competencies; (B) review teacher preparation requirements in cultural understanding and make recommendations for strengthening these standards; (C) create a new professional level teacher assessment; (D) expand the alternative routes to teacher certification program for business professionals and instructional assistants who will teach math and science; ((~~and~~)) (E) revise requirements for college and university teacher preparation programs to match a new knowledge- and skill-based performance system; and (F) test implementation of a revised teacher preparation program approach that is classroom experience-intensive and performance-based;

(ii) $3,269,000 of the general fund—state appropriation for fiscal year 2008 and $4,289,000 of the general fund—state appropriation for fiscal year 2009 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board. Of the amounts provided in this subsection (1)(d)(ii):

(A) $500,000 each year is provided solely for conditional scholarships to candidates seeking an endorsement in special education, math, science, or bilingual education;

(B) $2,210,000 for fiscal year 2008 and $3,230,000 for fiscal year 2009 are for the expansion of conditional scholarship loans and mentor stipends for individuals enrolled in alternative route state partnership programs and seeking endorsements in math, science, special education or bilingual education as follows: (I) For route one interns (those currently holding associates of arts degrees), in fiscal year 2008, 120 interns seeking endorsements in the specified subject areas and for fiscal year 2009, an additional 120 interns in the specified subject areas; and (II) for all other routes, funding is provided each year for 140 interns seeking endorsements in the specified subject areas;

(C) Remaining amounts in this subsection (1)(d)(ii) shall be used to continue existing alternative routes to certification programs; and

(D) Candidates seeking math and science endorsements under (A) and (B) of this subsection shall receive priority for funding;

(iii) $236,000 of the general fund—state appropriation for fiscal year 2008 and $231,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the recruiting Washington teachers program established in Second Substitute Senate Bill No. 5955 (educator preparation, professional development, and compensation)((~~-~~)).

(iv) $100,000 of the general fund—state appropriation for fiscal year 2008 and $200,000 of the general fund—state appropriation for fiscal year 2009 provided in this subsection (1)(d) are for $4,000 conditional loan stipends for paraeducators participating in the pipeline for paraeducators established in Second Substitute House Bill No. 1906 (improving mathematics and science education); and

(v) $244,000 of the general fund—state appropriation for fiscal year 2008 and $244,000 of the general fund—state appropriation for fiscal year 2009 are for conditional stipends for certificated teachers pursuing a mathematics or science endorsement under the retooling to teach mathematics or science program established in Second Substitute House Bill No. 1906 (improving mathematics and science education). The conditional stipends shall be for

endorsement exam fees as well as stipends for teachers who must also complete coursework.

(d) $555,000 of the general fund—state appropriation for fiscal year 2008 ((~~is~~)) and $867,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for increased attorney general fees related to education litigation.

(e) $67,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the professional educator standards board (PESB) to convene a work group to develop recommendations for increasing teacher knowledge, skills, and competencies to address the needs of English language learner students, pursuant to Second Substitute Senate Bill No. 6673 (student learning opportunities). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(f) ((~~$300,000~~)) $425,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$300,000~~)) $1,975,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for replacement of the apportionment system, which includes the processes that collect school district budget and expenditure information, staffing characteristics, and the student enrollments that drive the funding process.

(((~~f~~))) (g) $78,000 of the general fund—state appropriation for fiscal year 2008 and $78,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to provide direct services and support to schools around an integrated, interdisciplinary approach to instruction in conservation, natural resources, sustainability, and human adaptation to the environment. Specific integration efforts will focus on science, math, and the social sciences. Integration between basic education and career and technical education, particularly agricultural and natural sciences education, is to be a major element.

(((~~g~~))) (h) $1,336,000 of the general fund—state appropriation for fiscal year 2008 and $1,227,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the creation of a statewide data base of longitudinal student information. This amount is conditioned on the department satisfying the requirements in section 902 of this act.

(((~~h~~))) (i) $325,000 of the general fund—state appropriation for fiscal year 2008 and $325,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for comprehensive cultural competence and anti-bias education programs for educators and students. The office of superintendent of public instruction shall administer grants to school districts with the assistance and input of groups such as the anti-defamation league and the Jewish federation of Seattle.

(((~~i~~))) (j) $50,000 of the general fund—state appropriation for fiscal year 2008 and $50,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to promote the financial literacy of students. The effort will be coordinated through the financial literacy public-private partnership.

(((~~j~~))) (k) $204,000 of the general fund—state appropriation for fiscal year 2008 and $66,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5843 (regarding educational data and data systems). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(k)~~)) (l) $114,000 of the general fund—state appropriation for fiscal year 2008 and $114,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Substitute House Bill No. 1052 (legislative youth advisory council). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(l)~~)) (m) $162,000 of the general fund—state appropriation for fiscal year 2008 and $31,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Second Substitute House Bill No. 1422 (children and families of incarcerated parents). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(m)~~)) (n) $28,000 of the general fund—state appropriation for fiscal year 2008 and $27,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Second Substitute Senate Bill No. 5098 (Washington college bound scholarship). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(n)~~)) (o) $46,000 of the general fund—state appropriation for fiscal year 2008 and $3,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Engrossed Substitute Senate Bill No. 5297 (regarding providing medically and scientifically accurate sexual health education in schools). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

((~~(o)~~)) (p) $45,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the office of superintendent of public instruction to convene a workgroup to develop school food allergy guidelines and policies for school district implementation. The workgroup shall complete the development of the food allergy guidelines and policies by March 31, 2008, in order to allow for school district implementation in the 2008-2009 school year. The guidelines developed shall incorporate state and federal laws that impact management of food allergies in school settings.

((~~(p)~~)) (q) $42,000 of the general fund—state appropriation for fiscal year 2008 and $42,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support a program to recognize the work of outstanding classified staff in school districts throughout the state.

((~~(q)~~)) (r) $96,000 of the general fund—state appropriation for fiscal year 2008 and $98,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support a full-time director of skills centers within the office of the superintendent of public instruction.

((~~(r)~~)) (s) $555,000 of the general fund—state appropriation for fiscal year 2008 and $475,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the office of the superintendent of public instruction to contract with the northwest educational research laboratory (NWREL) to conduct two educational studies. Specifically, NWREL shall:

(i) Conduct a study regarding teacher preparation, training, and coordinated instructional support strategies for English language learners, as outlined in Engrossed Second Substitute Senate Bill No. 5841 (enhancing student learning opportunities and achievement). An interim report is due November 1, 2008, and the final report is due December 1, 2009. Both reports shall be delivered to the governor, the office of the superintendent of public instruction, and the

appropriate early learning, education, and fiscal committees of the legislature; and

(ii) Conduct a study of the effectiveness of the K-3 demonstration projects as outlined in Engrossed Second Substitute Senate Bill No. 5841 (enhancing student learning opportunities and achievement). An interim report is due November 1, 2008, and the final report is due December 1, 2009. Both reports shall be delivered to the governor, the office of the superintendent of public instruction, and the appropriate early learning, education, and fiscal committees of the legislature.

((~~(s)~~)) (t) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the office of the superintendent of public instruction to contract with Washington State University social and economic sciences research center (WSU-SESRC) to conduct to educational research studies. The WSU-SESRC shall:

(i) Conduct a study which reviews chapter 207, Laws of 2002 (bullying in schools), evaluate the outcomes resulting from the legislation, and to make recommendations for continued improvement. The study shall, at a minimum, determine: (A) Whether the policies have been developed and implemented in all elementary, middle, and high schools; (B) whether there has been any measurable improvement in the safety and civility of schools' climate and environment as a result of the legislation; (C) whether there are still issues that need to be addressed in light of the original intent of the legislation; and (D) recommended actions to be taken at the school, district, and state level to address the identified issues. Additionally, WSU-SESRC shall research and identify effective programs and the components of effective programs. A report shall be submitted to the education committees of the legislature and the office of the superintendent of public instruction by September 1, 2008.

(ii) Conduct an evaluation of the mathematics and science instructional coach program as described in Second Substitute House Bill No. 1906 (improving mathematics and science education). Findings shall include an evaluation of the coach development institute, coaching support seminars, and other coach support activities; recommendations with regard to the characteristics required of the coaches; identification of changes in teacher instruction related to coaching activities; and identification of the satisfaction level with coaching activities as experienced by classroom teachers and administrators. An interim report is due November 1, 2008. The final report is due December 1, 2009. Both the interim and final report shall be presented to the governor, the office of the superintendent of public instruction, and the education and fiscal committees of the legislature.

(u) $150,000 of the general fund—state appropriation for fiscal year 2008 and $150,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for additional costs incurred by the state board of education in reviewing proposed math standards and curriculum.

(v) During the 2007-09 biennium, to the maximum extent possible, in adopting new agency rules or making any changes to existing rules or policies related to the fiscal provisions in the administration of part V of this act, the office of the superintendent of public instruction shall attempt to request approval through the normal legislative budget process.

(w) $142,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the conducting of a comprehensive analysis of math and science teacher supply and demand issues by the professional educator standards board. By December 1, 2008, the professional educator standards board shall submit a final report to the governor and appropriate policy and fiscal committees of the legislature, that includes, but is not limited to: (i) Specific information on the current number of math and science teachers assigned to teach mathematics and science both with and without appropriate certification in those subjects by region and statewide; (ii) projected demand information by detailing the number of K-12 mathematics and science teachers needed by the 2010-11 school year by region and statewide; (iii) specific recommendations on how the demand will be met through recruitment programs, alternative route certification programs, potential financial incentives, retention strategies, and other efforts; and (iv) identification of strategies, based on best practices, to improve the rigor and productivity of state-funded mathematics and science teacher preparation programs. As part of the final report, the professional educator standards board and the Washington state institute for public policy shall provide information from a study of differential pay for teachers in high-demand subject areas such as mathematics and science, including the design, successes, and limitations of differential pay programs in other states. In order for the professional educator standards board to quantify demand, each school district shall provide to the board, by a date and in a format specified by the board, the number of teachers assigned to teach mathematics and science, both with and without appropriate certification and endorsement in those subjects, and the number of mathematics and science teaching vacancies needing to be filled, and the board shall include this data, by district, in its analysis.

(x) $45,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Substitute Senate Bill No. 6556 (anaphylactic policy). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(y) $44,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Substitute Senate Bill No. 6742 (guidelines for students with autism) and Substitute Senate Bill No. 6743 (training for students with autism). If neither bill is enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(z) Within the appropriations in this section, specific funding is provided for the implementation of Second Engrossed Substitute Senate Bill No. 5100 (health insurance information for students).

(aa) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute House Bill No. 2722 (achievement gap for African-American students). The center for the improvement of student learning will convene an advisory committee to conduct a detailed analysis of the achievement gap for African-American students; recommend a comprehensive plan for closing the gap pursuant to goals under the federal no child left behind act for all groups of students to meet academic standards by 2014; and identify performance measures to monitor adequate yearly progress. A study update shall be submitted by September 15, 2008, and the committee's final report shall be submitted by December 30, 2008, to the superintendent of public instruction, the state board of education, the governor,

the P-20 council, the basic education finance task force, and the education committees of the legislature. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(bb) Within the appropriations in this section specific funding is provided to implement Second Substitute House Bill No. 2598 (online mathematics curriculum).

(cc) Within the appropriations in this section specific funding is provided to implement Second Substitute House Bill No. 2635 (school district boundaries and organization).

(dd) Within the appropriations in this section specific funding is provided to implement Second Substitute House Bill No. 3129 (online learning programs for high school students to earn college credit).

(ee) $136,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the office of superintendent of public instruction to assign at least one full-time equivalent staff position to serve as the world language supervisor.

(2) STATEWIDE PROGRAMS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$14,783,000~~))
$14,283,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$16,459,000~~))
$16,128,000
General Fund—Federal Appropriation $55,890,000
TOTAL APPROPRIATION . . . . . ((~~$87,132,000~~))
$86,301,000

The appropriations in this subsection are provided solely for the statewide programs specified in this subsection and are subject to the following conditions and limitations:

(a) HEALTH AND SAFETY

(i) $2,541,000 of the general fund—state appropriation for fiscal year 2008 and $2,541,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) $96,000 of the general fund—state appropriation for fiscal year 2008 and $96,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(iii) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a school safety training program provided by the criminal justice training commission. The commission, in collaboration with the school safety center advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(iv) $40,000 of the general fund—state appropriation for fiscal year 2008 and $40,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the safety center advisory committee to develop and distribute a pamphlet to promote internet safety for children, particularly in grades seven through twelve. The pamphlet shall be posted on the superintendent of public instruction's web site. To the extent possible, the pamphlet shall be distributed in schools throughout the state and in other areas accessible to youth, including but not limited to libraries and community centers.

(v) $10,344,000 of the general fund—federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies.

(vi) $271,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$271,000~~)) $396,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership. The program shall provide ((~~a request for proposal process, with up to 80 percent funding, for~~)) nonviolence leadership workshops including in-school, weekend, and school break programming serving at least 12 school districts with direct programming in 36 elementary, middle, and high schools throughout Washington state.

(vii) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a pilot youth suicide prevention and information program. The office of superintendent of public instruction will work with selected school districts and community agencies in identifying effective strategies for preventing youth suicide.

(viii) $800,000 of the general fund—state appropriation for fiscal year 2008 and $800,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for programs to improve safety and emergency preparedness and planning in public schools, as generally described in Substitute Senate Bill No. 5097. The superintendent of public instruction shall design and implement the grant program in consultation with the educational service districts, the school safety advisory committee, and the Washington association of sheriffs and police chiefs. The funding shall support grants to school districts for the development and updating of comprehensive safe school plans, school safety training, and the conducting of safety-related drills. As a condition of receiving these funds, school districts must ensure that schools (A) conduct at least one lockdown and one shelter in place safety drill each school year, and (B) send updated school mapping database information on an annual basis to the Washington association of sheriffs and police chiefs.

(ix) $40,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state school directors' association to mediate

and facilitate a school disciplinary action task force to review and make recommendations on a model policy regarding the use of physical force in schools. The model policy shall be submitted to the appropriate policy committees of the legislature by November 1, 2008.

(x) $180,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute House Bill No. 2712 (concerning criminal street gangs). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(b) TECHNOLOGY

(i) $1,939,000 of the general fund—state appropriation for fiscal year 2008 and $1,939,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(ii) The office of the superintendent of public instruction shall coordinate, in collaboration with educational service districts, a system of outreach to school districts not currently maximizing their eligibility for federal e-rate funding through the schools and libraries program administered by the federal communications commission. By December 15, 2008, the office of the superintendent of public instruction shall issue a report to the fiscal committees of the legislature identifying school districts that were eligible but did not apply for e-rate funding for the last two years, and an estimate of the amounts for which they were eligible in those years. The report shall also include recommendations for following-up on the findings relative to the e-rate program contained in the state auditor's performance audit of educational service districts completed September, 2007.

(c) GRANTS AND ALLOCATIONS

(i) $652,000 of the general fund—state appropriation for fiscal year 2008 and $1,329,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to expand the special services pilot project to include up to seven participating districts. The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of RCW ((~~28A.630.015~~)) 28A.630.016. Of the amounts provided, $11,000 of the general fund—state appropriation for fiscal year 2008 and $11,000 of the general fund—state appropriation for fiscal year 2009 are provided for the office of the superintendent of public instruction to conduct a study of the expanded special services pilot.

(ii) $31,000 of the general fund—state appropriation for fiscal year 2008 and $31,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for operation of the Cispus environmental learning center.

(iii) $97,000 of the general fund—state appropriation for fiscal year 2008 and $97,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support vocational student leadership organizations.

(iv) $146,000 of the general fund—state appropriation for fiscal year 2008 and $146,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Washington civil liberties education program.

(v) $1,000,000 of the general fund—state appropriation for fiscal year 2008 and $1,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(vi) $294,000 of the general fund—state appropriation for fiscal year 2008 and $294,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Lorraine Wojahn dyslexia pilot reading program in up to five school districts.

(vii) $75,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for developing and disseminating curriculum and other materials documenting women's role in World War II.

(viii) $175,000 of the general fund—state appropriation for fiscal year 2008 and $175,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for incentive grants for districts and pilot projects to develop preapprenticeship programs. Incentive grant awards up to $10,000 each shall be used to support the program's design, school/business/labor agreement negotiations, and recruiting high school students for preapprenticeship programs in the building trades and crafts.

(ix) $3,220,000 of the general fund—state appropriation for fiscal year 2008 and $3,220,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the dissemination of the Navigation 101 curriculum to all districts, including disseminating electronic student planning tools and software for analyzing the impact of the implementation of Navigation 101 on student performance, and grants to at least one hundred school districts each year for the implementation of the Navigation 101 program. The implementation grants will be limited to a maximum of two years and the school districts selected shall represent various regions of the state and reflect differences in school district size and enrollment characteristics.

(x) $36,000 of the general fund—state appropriation for fiscal year 2008 and $36,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the enhancement of civics education. Of this amount, $25,000 each year is provided solely for competitive grants to school districts for curriculum alignment, development of innovative civics projects, and other activities that support the civics assessment established in chapter 113, Laws of 2006.

(xi) $2,500,000 of the general fund—state appropriation for fiscal year 2008 and $2,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Second Substitute House Bill No. 1573 (authorizing a statewide program for comprehensive dropout prevention, intervention, and retrieval). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(xii) $25,000 of the general fund—state appropriation for fiscal year 2008 and $25,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the communities in school program in Pierce county.

(xiii) ((~~$500,000 of the general fund—state appropriation for fiscal year 2008 and $500,000 of the general fund—state appropriation for fiscal year 2009~~

~~are provided solely for the office of superintendent of public instruction to contract with a company to develop and implement a pilot program for providing indigenous learning curriculum and standards specific online learning programs based on the recommended standards in chapter 205, Laws of 2005 (Washington's tribal history). The specific content areas covered by the pilot program will include social studies and science. The contractor selected will have experience in developing and implementing indigenous learning curricula and if possible will be affiliated with a recognized Washington state tribe. The pilot program will be implemented in a minimum of three school districts in collaboration with Washington tribes and school districts. To the extent possible and appropriate, the pilot program will involve organizations including, the University of Washington's mathematics science and engineering achievement, the digital learning commons, the virtual possibilities network, the museum of arts and culture in Spokane, Eastern Washington University, and Washington State University.~~

~~(xiv)~~)) $70,000 of the general fund—state appropriation for fiscal year 2008 and $70,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support and expand the mentoring advanced placement program in current operation in southwest Washington.

(((~~(xv) $1,000,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement House Bill No. 1051 (expanding high school completion programs). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.~~

~~(xvi)~~)) (xiv) $75,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for program initiatives to address the educational needs of Latino students and families. Using the full amounts of the appropriations under this subsection, the office of the superintendent of public instruction shall contract with the Seattle community coalition of compana quetzal to provide for three initiatives: (A) Early childhood education; (B) parent leadership training; and (C) high school success and college preparation programs. Campana quetzal shall report to the office of the superintendent of public instruction by June 30, 2009, regarding impact of the programs on addressing the academic achievement gap, including high school drop-out rates and college readiness rates, for Latino students.

(xv) $264,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a pilot program in two school districts to provide sequentially articulated Spanish and Chinese language instruction in elementary schools.

(xvi) $300,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for reimbursement to school districts for costs associated with offering the preliminary scholastic aptitude test (PSAT) to tenth grade students outlined in Second Substitute Senate Bill No. 6673 (student learning opportunities). The office of the superintendent of public instruction shall provide payment for these tests consistent with established procedures with the appropriate testing companies. Within the amount provided in this subsection, the office of the superintendent of public instruction shall pay for as many tests as the available funding allows, ensure equitable funding across districts, and first provide payments for tenth grade

students eligible for free or reduced price lunch that take the preliminary scholastic aptitude test. To the extent funding remains after providing for this reimbursement for students eligible for free or reduced price lunch, the office of the superintendent of public instruction may make payments for other students.

(xvii) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute House Bill No. 2870 (professional development for instructional assistants). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(xviii) $10,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the superintendent of public instruction to convene a work group that includes representatives from dual credit programs including representatives from high schools, the tech prep program, the state board for community and technical colleges, the public four-year institutions of higher education, the workforce training and education coordinating board, the higher education coordinating board, and the council of presidents to develop a strategic plan for statewide coordination of dual credit programs including but not limited to running start, college in the high school, tech prep, advanced placement, and international baccalaureate. The plan shall clearly articulate the purpose and definition of each program, the goals associated with each program, the personnel required both to administer and teach each program, the benefits to students, and the barriers to access. The work group must provide the plan to the appropriate committees of the legislature by December 1, 2008.

(xix) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for a pilot project to encourage bilingual high school students to pursue public school teaching as a profession. Using the full amounts of the appropriation under this subsection, the office of the superintendent of public instruction shall contract with the Latino/a educational achievement project (LEAP) to work with school districts to identify and mentor not fewer than fifty bilingual students in their junior year of high school, encouraging them to become bilingual instructors in schools with high English language learner populations. Students shall be mentored by bilingual teachers and complete a curriculum developed and approved by the participating districts.

***Sec. 501 was partially vetoed. See message at end of chapter.**

Sec. 502. 2007 c 522 s 502 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT

General Fund—State Appropriation (FY 2008) . . . . . ((~~$4,448,333,000~~))
$4,436,719,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$4,474,199,000~~))
$4,477,998,000

Education Legacy Trust Account—State
Appropriation. . . . . ((~~$9,387,000~~))
$9,373,000

Pension Funding Stabilization Account Appropriation $341,624,000

TOTAL APPROPRIATION . . . . . ((~~$9,273,543,000~~))
$9,265,714,000

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

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

(2) Allocations for certificated staff salaries for the 2007-08 and 2008-09 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (e) through (g) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

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

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

(ii) Forty-nine certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12; and

(iv) An additional 4.2 certificated instructional staff units for grades K-3 and an additional 7.2 certificated instructional staff units for grade 4. Any funds allocated for the additional certificated units provided in this subsection (iv) shall not be considered as basic education funding;

(A) Funds provided under this subsection (2)(a)(iv) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio in grades K-4 equal to or greater than 53.2 certificated instructional staff per thousand full-time equivalent students. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-4 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-4 may dedicate up to 1.3 of the 53.2 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-4. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio in grades K-4 equal to or greater than 53.2 certificated instructional staff per thousand full-time equivalent students may use allocations generated under this subsection (2)(a)(iv) in excess of that required to maintain the minimum ratio established under RCW

28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 5-6. Funds allocated under this subsection (2)(a)(iv) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants;

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

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

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

(B) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2008-09 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

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

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

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

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

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

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-

8 and have been judged to be remote and necessary by the state board of education:

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

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

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

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

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

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

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

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

(3) Allocations for classified salaries for the 2007-08 and 2008-09 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(e) through (i) of this section, one classified staff unit for each ((~~2.95~~)) 2.94 certificated staff units allocated under such subsections;

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

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

(4) Fringe benefit allocations shall be calculated at a rate of ((~~14.13~~)) 14.11 percent in the 2007-08 school year and ((~~16.69~~)) 16.75 percent in the 2008-09 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of ((~~17.06~~)) 17.04 percent in the 2007-08 school year and

((~~18.74~~)) 18.72 percent in the 2008-09 school year for classified salary allocations provided under subsection (3) of this section.

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

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

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

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (h) of this section, there shall be provided a maximum of $9,703 per certificated staff unit in the 2007-08 school year and a maximum of ((~~$9,907~~)) $10,178 per certificated staff unit in the 2008-09 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of $23,831 per certificated staff unit in the 2007-08 school year and a maximum of ((~~$24,331~~)) $24,999 per certificated staff unit in the 2008-09 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of $18,489 per certificated staff unit in the 2007-08 school year and a maximum of ((~~$18,877~~)) $19,395 per certificated staff unit in the 2008-09 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of $555.20 for the 2007-08 and 2008-09 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

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

(9) $1,870,000 of the general fund—state appropriation for fiscal year 2008 and $2,421,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Engrossed Second Substitute House Bill No. 1432 (granting service credit to educational staff associates for nonschool

employment). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(10) The superintendent may distribute a maximum of ((~~$16,622,000~~)) $16,620,000 outside the basic education formula during fiscal years 2008 and 2009 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of $547,000 may be expended in fiscal year 2008 and a maximum of ((~~$558,000~~)) $567,000 may be expended in fiscal year 2009;

(b) For summer vocational programs at skills centers, a maximum of $2,385,000 may be expended for the 2008 fiscal year and a maximum of $2,385,000 for the 2009 fiscal year. 20 percent of each fiscal year amount may carry over from one year to the next;

(c) A maximum of ((~~$390,000~~)) $393,000 may be expended for school district emergencies;

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

(e) ((~~$9,387,000~~)) $9,373,000 of the education legacy trust account appropriation is provided solely for allocations for equipment replacement in vocational programs and skills centers. Each year of the biennium, the funding shall be allocated based on $75 per full-time equivalent vocational student and $125 per full-time equivalent skills center student.

(f) $2,991,000 of the general fund—state appropriation for fiscal year 2008 and $4,403,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Second Substitute Senate Bill No. 5790 (regarding skills centers). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(11) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 5.7 percent from the 2006-07 school year to the 2007-08 school year and ((~~5.1~~)) 6.0 percent from the 2007-08 school year to the 2008-09 school year.

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

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

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

(13) The appropriation levels in part V of this act assume implementation of the reimbursement provisions of Senate Bill No. 6450 (school district reimbursement of performance audits).

Sec. 503. 2007 c 522 s 503 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION. (1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 2 by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP Document 1; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 2.

(2) For the purposes of this section:

(a) "LEAP Document 1" means the staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on ((~~March 24, 2007, at 07:29~~)) March 9, 2008, at 15:09 hours; and

(b) "LEAP Document 2" means the school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on ((~~April 19, 2007, at 06:03~~)) March 9, 2008, at 15:09 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of ((~~14.13~~)) 14.11 percent for school year 2007-08 and ((~~16.69~~)) 16.75 percent for school year 2008-09 for certificated staff and for classified staff ((~~17.06~~)) 17.04 percent for school year 2007-08 and ((~~18.74~~)) 18.72 percent for the 2008-09 school year.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

K-12 Salary Allocation Schedule For Certificated Instructional Staff
2007-08 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	32,746	33,630	34,547	35,465	38,412	40,310	39,260	42,207	44,107
1	33,187	34,083	35,011	35,970	38,948	40,836	39,696	42,674	44,560
2	33,607	34,512	35,450	36,483	39,452	41,359	40,135	43,104	45,012
3	34,039	34,953	35,901	36,967	39,930	41,884	40,552	43,513	45,468
4	34,464	35,418	36,372	37,474	40,455	42,423	40,988	43,969	45,938
5	34,902	35,861	36,824	37,988	40,958	42,965	41,432	44,403	46,410
6	35,353	36,291	37,287	38,508	41,464	43,482	41,887	44,843	46,860
7	36,145	37,097	38,106	39,394	42,393	44,467	42,739	45,737	47,812
8	37,304	38,308	39,340	40,735	43,775	45,925	44,079	47,120	49,269
9		39,562	40,646	42,091	45,202	47,425	45,434	48,547	50,770

10	41,967	43,516	46,669	48,966	46,861	50,014	52,310
11		44,984	48,204	50,547	48,328	51,550	53,891
12		46,404	49,781	52,194	49,853	53,126	55,540
13			51,397	53,882	51,431	54,741	57,226
14			53,020	55,632	53,056	56,471	58,977
15			54,400	57,080	54,435	57,939	60,511
16 or more			55,487	58,220	55,523	59,097	61,720

K-12 Salary Allocation Schedule For Certificated Instructional Staff
2008-09 School Year

((~~Years of Service~~ | ~~BA~~ | ~~BA+15~~ | ~~BA+30~~ | ~~BA+45~~ | ~~BA+90~~ | ~~BA+135~~ | ~~MA~~ | ~~MA+45~~ | ~~MA+90 or PHD~~

~~0~~	~~33,898~~	~~34,814~~	~~35,762~~	~~36,713~~	~~39,763~~	~~41,728~~	~~40,641~~	~~43,691~~	~~45,658~~
~~1~~	~~34,354~~	~~35,282~~	~~36,243~~	~~37,236~~	~~40,318~~	~~42,272~~	~~41,093~~	~~44,175~~	~~46,128~~
~~2~~	~~34,789~~	~~35,726~~	~~36,697~~	~~37,766~~	~~40,840~~	~~42,814~~	~~41,547~~	~~44,621~~	~~46,596~~
~~3~~	~~35,237~~	~~36,183~~	~~37,164~~	~~38,267~~	~~41,335~~	~~43,357~~	~~41,979~~	~~45,044~~	~~47,067~~
~~4~~	~~35,676~~	~~36,664~~	~~37,651~~	~~38,793~~	~~41,878~~	~~43,915~~	~~42,430~~	~~45,516~~	~~47,554~~
~~5~~	~~36,130~~	~~37,123~~	~~38,120~~	~~39,324~~	~~42,399~~	~~44,476~~	~~42,890~~	~~45,965~~	~~48,043~~
~~6~~	~~36,597~~	~~37,567~~	~~38,598~~	~~39,863~~	~~42,923~~	~~45,011~~	~~43,361~~	~~46,421~~	~~48,508~~
~~7~~	~~37,416~~	~~38,402~~	~~39,446~~	~~40,780~~	~~43,885~~	~~46,031~~	~~44,243~~	~~47,346~~	~~49,494~~
~~8~~	~~38,616~~	~~39,655~~	~~40,724~~	~~42,168~~	~~45,315~~	~~47,541~~	~~45,630~~	~~48,778~~	~~51,002~~
~~9~~		~~40,954~~	~~42,076~~	~~43,572~~	~~46,792~~	~~49,093~~	~~47,032~~	~~50,255~~	~~52,556~~
~~10~~			~~43,443~~	~~45,047~~	~~48,310~~	~~50,688~~	~~48,509~~	~~51,773~~	~~54,150~~
~~11~~				~~46,566~~	~~49,900~~	~~52,326~~	~~50,028~~	~~53,363~~	~~55,787~~
~~12~~				~~48,036~~	~~51,533~~	~~54,030~~	~~51,606~~	~~54,995~~	~~57,493~~
~~13~~					~~53,205~~	~~55,777~~	~~53,240~~	~~56,667~~	~~59,239~~
~~14~~					~~54,885~~	~~57,589~~	~~54,922~~	~~58,457~~	~~61,052~~
~~15~~					~~56,313~~	~~59,088~~	~~56,350~~	~~59,977~~	~~62,639~~
~~16 or more~~					~~57,439~~	~~60,269~~	~~57,476~~	~~61,176~~	~~63,892~~))

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	34,426	35,356	36,319	37,285	40,383	42,378	41,274	44,372	46,369
1	34,889	35,832	36,808	37,816	40,946	42,931	41,733	44,863	46,847
2	35,331	36,283	37,269	38,354	41,476	43,481	42,195	45,316	47,321
3	35,786	36,747	37,743	38,864	41,979	44,033	42,632	45,746	47,801
4	36,232	37,235	38,238	39,397	42,531	44,599	43,091	46,225	48,295
5	36,693	37,701	38,713	39,937	43,059	45,169	43,558	46,681	48,791
6	37,167	38,153	39,200	40,484	43,591	45,713	44,036	47,144	49,264
7	37,999	39,000	40,061	41,415	44,568	46,748	44,932	48,084	50,265
8	39,218	40,273	41,359	42,825	46,021	48,281	46,341	49,538	51,797
9		41,591	42,731	44,250	47,521	49,858	47,765	51,038	53,374
10			44,120	45,749	49,063	51,478	49,265	52,580	54,993
11				47,291	50,677	53,141	50,807	54,194	56,656
12				48,784	52,335	54,872	52,410	55,851	58,389
13					54,034	56,646	54,069	57,550	60,162

14	55,740	58,486	55,778	59,368	62,003
15	57,191	60,008	57,227	60,911	63,615
16 or more	58,334	61,207	58,372	62,129	64,887

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

(i) Credits earned since receiving the masters degree; and

(ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

(a) "BA" means a baccalaureate degree.

(b) "MA" means a masters degree.

(c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The certificated instructional staff base salary specified for each district in LEAP Document 2 and the salary schedules in subsection (4)(a) of this section include two learning improvement days. A school district is eligible for the learning improvement day funds only if the learning improvement days have been added to the 180-day contract year. If fewer days are added, the additional learning improvement allocation shall be adjusted accordingly. The additional days shall be limited to specific activities identified in the state required school improvement plan related to improving student learning that are consistent with education reform implementation, and shall not be considered part of basic education. The principal in each school shall assure that the days are used to provide the necessary school-wide, all staff professional development that is tied directly to the school improvement plan. The school principal and the district superintendent shall maintain documentation as to their approval of these activities. The length of a learning improvement day shall not be less than the length of a full day under the base contract. The superintendent of public instruction shall ensure that school districts adhere to the intent and purposes of this subsection.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2) and subsection (7) of this section.

Sec. 504. 2007 c 522 s 504 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$161,665,000~~)) $161,280,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$348,871,000~~)) $405,228,000

General Fund—Federal Appropriation . . . . . ((~~$243,000~~)) $275,000

TOTAL APPROPRIATION . . . . . ((~~$510,779,000~~)) $566,783,000

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

(1) ((~~$444,366,000~~)) $500,195,000 is provided solely for the following:

(a) A cost of living adjustment of 3.7 percent effective September 1, 2007, and another ((~~2.8~~)) 3.9 percent effective September 1, 2008, pursuant to Initiative Measure No. 732.

(b) An additional .5 percent cost of living adjustment is provided above the amount required by Initiative Measure No. 732, effective September 1, 2008.

(c) Additional salary increases as necessary to fund the base salaries for certificated instructional staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. Allocations for these salary increases shall be provided to all 262 districts that are not grandfathered to receive salary allocations above the statewide salary allocation schedule, and to certain grandfathered districts to the extent necessary to ensure that salary allocations for districts that are currently grandfathered do not fall below the statewide salary allocation schedule. These additional salary increases will result in a decrease in the number of grandfathered districts from the current thirty-four to twenty-four in the 2007-08 school year and to ((~~thirteen~~)) twelve in the 2008-09 school year.

(((~~(c)~~))) (d) Additional salary increases to certain districts as necessary to fund the per full-time-equivalent salary allocations for certificated administrative staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These additional salary increases shall ensure a minimum salary allocation for certificated administrative staff of $54,405 in the 2007-08 school year and ((~~$57,097~~)) $57,986 in the 2008-09 school year.

(((~~(d)~~))) (e) Additional salary increases to certain districts as necessary to fund the per full-time-equivalent salary allocations for classified staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These additional salary increases ensure a minimum salary allocation for classified staff of $30,111 in the 2007-08 school year and ((~~$31,376~~)) $31,865 in the 2008-09 school year.

(((~~(e)~~))) (f) The appropriations in this subsection (1) include associated incremental fringe benefit allocations at rates ((~~13.49~~)) 13.47 percent for the 2007-08 school year and ((~~16.05~~)) 16.11 percent for the 2008-09 school year for certificated staff and ((~~13.56~~)) 13.54 percent for the 2007-08 school year and ((~~15.24~~)) 15.22 percent for the 2008-09 school year for classified staff.

((~~(f)~~)) (g) The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 502 and 503 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act.

((~~(g)~~)) (h) The appropriations in this section provide cost of living and incremental fringe benefit allocations based on formula adjustments as follows:

	School Year	
	2007-08	2008-09
Pupil Transportation (per weighted pupil mile)	$1.08	((~~$2.04~~)) $2.46
Highly Capable (per formula student)	$11.13	((~~$20.98~~)) $25.51
Transitional Bilingual Education (per eligible bilingual student)	((~~$29.81~~)) $29.80	((~~$56.19~~)) $68.33
Learning Assistance (per formula student)	$7.00	((~~$13.20~~)) $18.86

((~~(h)~~)) (i) The appropriations in this section include $925,000 for fiscal year 2008 and ((~~$1,940,000~~)) $2,314,000 for fiscal year 2009 for salary increase adjustments for substitute teachers.

(2) ((~~$66,415,000~~)) $66,591,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is $682.54 per month for the 2007-08 and 2008-09 school years. The appropriations in this section provide for a rate increase to $707.00 per month for the 2007-08 school year and $732.00 per month for the 2008-09 school year. The adjustments to health insurance benefit allocations are at the following rates:

	School Year	
	2007-08	2008-09
Pupil Transportation (per weighted pupil mile)	$0.22	$0.45
Highly Capable (per formula student)	((~~$1.49~~)) $1.50	$3.05
Transitional Bilingual Education (per eligible bilingual student)	((~~$3.97~~)) $3.96	$8.01
Learning Assistance (per formula student)	$0.86	((~~$1.75~~)) $2.05

(3) The rates specified in this section are subject to revision each year by the legislature.

Sec. 505. 2007 c 522 s 505 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund—State Appropriation (FY 2008) . . . . . ((~~$262,728,000~~)) $273,409,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$264,700,000~~)) $276,510,000

Education Legacy Trust Account—State Appropriation. $25,000,000

TOTAL APPROPRIATION . . . . . ((~~$552,428,000~~)) $574,919,000

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

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

(2) A maximum of $848,000 of this fiscal year 2008 appropriation and a maximum of ((~~$866,000~~)) $878,000 of the fiscal year 2009 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) $5,000 of the fiscal year 2008 appropriation and $5,000 of the fiscal year 2009 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of $44.84 per weighted mile in the 2007-08 school year and ((~~$45.48~~)) $45.68 per weighted mile in the 2008-09 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(5) $25,000,000 of the education legacy trust account—state appropriation is provided solely for temporary assistance to school districts for pupil transportation programs. The office of the superintendent of public instruction, in consultation with the joint legislative audit and review committee, will develop a method of allocating these funds to school districts. The allocation method shall be based primarily on the findings and analysis from the joint legislative and audit review committee's K-12 pupil transportation study completed in December 2006.

(6) The office of the superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of

public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195.

(7) The superintendent of public instruction shall base depreciation payments for school district buses on the five-year average of lowest bids in the appropriate category of bus. In the final year on the depreciation schedule, the depreciation payment shall be based on the lowest bid in the appropriate bus category for that school year.

Sec. 506. 2007 c 522 s 507 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$532,192,000~~))
$543,469,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$566,174,000~~))
$581,925,000

General Fund—Federal Appropriation . . . . . ((~~$435,735,000~~))
$435,692,000

Education Legacy Trust Account—State Appropriation. $14,561,000

TOTAL APPROPRIATION . . . . . ((~~$1,548,662,000~~))
$1,575,647,000

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

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall ensure that:

(i) Special education students are basic education students first;

(ii) As a class, special education students are entitled to the full basic education allocation; and

(iii) Special education students are basic education students for the entire school day.

(b) The superintendent of public instruction shall adopt the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006, and ensure that all school districts adopt the method beginning in the 2007-08 school year.

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

(4) The superintendent of public instruction shall distribute state funds to school districts based on two categories: (a) The first category includes (i)

children birth through age two who are eligible for the optional program for special education eligible developmentally delayed infants and toddlers, and (ii) students eligible for the mandatory special education program and who are age three or four, or five and not yet enrolled in kindergarten; and (b) the second category includes students who are eligible for the mandatory special education program and who are age five and enrolled in kindergarten and students age six through 21.

(5)(a) For the 2007-08 and 2008-09 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten, as defined in subsection (4) of this section, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools.

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

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

Each district's general fund—state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, ((~~$30,690,000~~)) $53,926,000 of the general fund—state appropriation and $29,574,000 of the general fund—federal appropriation are provided for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (5) of this section. If the federal safety net awards based on the federal eligibility threshold exceed the ((~~amount appropriated~~)) federal appropriation in this subsection (8) in any fiscal year, the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be

awarded by the state safety net oversight committee subject to the following conditions and limitations:

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

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

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

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

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

(f) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999. The state safety net oversight committee shall ensure that safety net documentation and awards are based on current medicaid revenue amounts.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

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

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

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

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

(11) The office of the superintendent of public instruction shall review and streamline the application process to access safety net funds, provide technical assistance to school districts, and annually survey school districts regarding improvement to the process.

(12) A maximum of $678,000 may be expended from the general fund—state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(13) A maximum of $1,000,000 of the general fund—federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(14) $50,000 of the general fund—state appropriation for fiscal year 2008, $50,000 of the general fund—state appropriation for fiscal 2009, and $100,000 of the general fund—federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction. The purpose of the program is to provide support to parents, guardians, educators, and students with disabilities. The program will provide information to help families and educators understand state laws, rules, and regulations, and access training and support, technical information services, and mediation services. The ombudsman program will provide data, information, and appropriate recommendations to the office of superintendent of public instruction, school districts, educational service districts, state need projects, and the parent and teacher information center. Within the appropriations in this section there is sufficient funding provided to also provide at least a half-time support staff position for the special education ombudsman program.

(15) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(16) A maximum of $1,200,000 of the general fund—federal appropriation may be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services.

(17) The superintendent, consistent with the new federal IDEA reauthorization, shall continue to educate school districts on how to implement a birth-to-three program and review the cost effectiveness and learning benefits of early intervention.

(18) A school district may carry over from one year to the next year up to 10 percent of the general fund—state funds allocated under this program; however, carryover funds shall be expended in the special education program.

(19) $262,000 of the general fund—state appropriation for fiscal year 2008 and $251,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for two additional full-time equivalent staff to support the work of the safety net committee and to provide training and support to districts applying for safety net awards.

***Sec. 507.** 2007 c 522 s 508 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$7,520,000~~))

$7,519,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$8,527,000~~))
$10,248,000
TOTAL APPROPRIATION . . . . . ((~~$16,047,000~~))
$17,767,000

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

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) $1,662,000 of the general fund—state appropriation in fiscal year 2008 and $3,355,000 of the general fund—state appropriation in fiscal year 2009 are provided solely for regional professional development related to mathematics and science curriculum and instructional strategies. For each educational service district, $184,933 is provided in fiscal year 2008 for professional development activities related to mathematics curriculum and instruction and $372,357 is provided in fiscal year 2009 for professional development activities related to mathematics and science curriculum and instruction. Each educational service district shall use this funding solely for salary and benefits for a certificated instructional staff with expertise in the appropriate subject matter and in professional development delivery, and for travel, materials, and other expenditures related to providing regional professional development support. The office of superintendent of public instruction shall also allocate to each educational service district additional amounts provided in section 504 of this act for compensation increases associated with the salary amounts and staffing provided in this subsection (2).

(3) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

(4) $876,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6673 (student learning opportunities) to establish reading improvement specialist positions in each of the nine educational service districts. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(5) $592,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6673 (student learning opportunities) for educational service district outreach to community-based programs and organizations within the district that are serving non-English speaking segments of the population as well as those programs that target subgroups of students that may be struggling academically. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(6) $250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Substitute House Bill No. 2679 (educational outcomes for students in foster care). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

***Sec. 507 was partially vetoed. See message at end of chapter.**

Sec. 508. 2007 c 522 s 509 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$202,394,000~~)) $203,555,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$212,310,000~~)) $220,100,000

TOTAL APPROPRIATION . . . . . ((~~$414,704,000~~)) $423,655,000

Sec. 509. 2007 c 522 s 510 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$18,301,000~~)) $19,105,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$18,513,000~~)) $19,764,000

TOTAL APPROPRIATION . . . . . ((~~$36,814,000~~)) $38,869,000

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

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

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) ((~~$196,000~~)) $187,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$196,000~~)) $133,797 of the general fund—state appropriation for fiscal year 2009 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles,

programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

Sec. 510. 2007 c 522 s 511 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$8,396,000~~))
$8,383,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$8,779,000~~))
$8,788,000

TOTAL APPROPRIATION . . . . . ((~~$17,175,000~~))
$17,171,000

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

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

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of ((~~$372.19~~)) $372.15 per funded student for the 2007-08 school year and ((~~$378.17~~)) $378.13 per funded student for the 2008-09 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of 2.314 percent of each district's full-time equivalent basic education enrollment.

(3) $170,000 of the fiscal year 2008 appropriation and $170,000 of the fiscal year 2009 appropriation are provided for the centrum program at Fort Worden state park.

(4) $90,000 of the fiscal year 2008 appropriation and $90,000 of the fiscal year 2009 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

***Sec. 511.** 2007 c 522 s 513 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATION REFORM PROGRAMS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$66,278,000~~))
$66,272,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$73,567,000~~))
$89,985,000

Education Legacy Trust Account—State
Appropriation. . . . . ((~~$125,325,000~~))
$120,790,000

General Fund—Federal Appropriation . . . . . ((~~$152,616,000~~))
$152,568,000

TOTAL APPROPRIATION . . . . . ((~~$417,786,000~~))
$429,615,000

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

(1) ((~~$19,966,000~~)) $19,716,000 of the general fund—state appropriation for fiscal year 2008, ((~~$19,946,000~~)) $21,996,000 of the general fund—state appropriation for fiscal year 2009, $1,350,000 of the education legacy trust account—state appropriation, and $15,870,000 of the general fund—federal appropriation are provided solely for development and implementation of the Washington assessments of student learning (WASL), including: (i) Development and implementation of retake assessments for high school students who are not successful in one or more content areas of the WASL; and (ii) development and implementation of alternative assessments or appeals procedures to implement the certificate of academic achievement. The superintendent of public instruction shall report quarterly on the progress on development and implementation of alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student WASL results, on or around June 10th of each year. In addition to the amounts provided for the Washington assessments of student learning in this subsection, $11,372,000 is also included in the appropriations to the office of financial management in this act for an interagency agreement with the office of superintendent of public instruction for the expenditure of those funds based on compliance with certain requirements.

(2) $3,249,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Substitute House Bill No. 3166 (design of the state assessment system and the Washington assessment of student learning), including section 3 of the act providing for end-of-course tests in math. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

((~~$250,000 of the general fund—state appropriation for fiscal year 2008, $250,000 of the general fund—state appropriation for fiscal year 2009, and $10,750,000 of the education legacy trust account—state appropriation are provided solely for the implementation of Engrossed Substitute Senate Bill No. 6023 (regarding alternative assessments), including section 2 and section 5 of that act. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse. Additionally, the funding provided in this subsection is subject to the following conditions and limitations:~~

~~(a) The funding may be spent on reviewing, developing, and implementing approved alternative assessments authorized in Engrossed Substitute Senate Bill No. 6023 (regarding alternative assessments).~~

~~(b) The funding may also be used for reviewing, developing, and implementing end-of-course examinations pursuant to Engrossed Substitute Senate Bill No. 6023 (regarding alternative assessments).~~

~~(c) The funding may be used for increased costs associated with additional full time equivalent students directly resulting from additional course taking requirements specified in Engrossed Substitute Senate Bill No. 6023 (regarding alternative assessments).~~

~~(d) $4,900,000 of the funds provided in this subsection are provided solely for allocations for school districts to purchase diagnostic assessments as specified in Engrossed Substitute Senate Bill No. 6023. By September 1, 2007, the office of the superintendent of public instruction shall: (i) Negotiate an agreement with an assessment vendor or vendors to secure competitive pricing for school districts for high quality diagnostic assessment tools, and (ii) provide~~

~~quality comparison information to school districts regarding various diagnostic assessment tools available. Of the funding provided, a maximum of $100,000 may be spent by the office of the superintendent of public instruction for administrative support.~~

~~(e) Beginning on September 1, 2007, the office of the superintendent of public instruction shall submit quarterly reports to the office of financial management and the appropriate policy and fiscal committees of the legislature detailing the actions taken pursuant to Engrossed Substitute Senate Bill No. 6023 (regarding alternative assessments) and amounts spent of each aspect of the legislation.~~))

(3) $250,000 of the general fund—state appropriation for fiscal year 2008, $250,000 of the general fund—state appropriation for fiscal year 2009, and $4,400,000 of the education legacy trust account—state appropriation is provided solely for the development and implementation of diagnostic assessments, subject to the following terms and conditions:

(a) A maximum of $2,540,000 of the funding provided in this subsection shall support the development and implementation of voluntary classroom-based diagnostic assessments and progress monitoring tools for all subject areas included in the WASL by the office of the superintendent of public instruction; and

(b) $2,360,000 of the funding provided in this subsection is for allocations to school districts to purchase assessment tools which supplement the system of diagnostic tests developed by the office of the superintendent of public instruction as described in (a) of this subsection.

(4) $70,000 of the general fund—state appropriation for fiscal year 2008 and $70,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the second grade assessments.

((~~(4)~~)) (5) $1,414,000 of the general fund—state appropriation for fiscal year 2008 and $1,414,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for (a) the tenth grade mathematics assessment tool that: (i) Presents the mathematics essential learnings in segments for assessment; (ii) is comparable in content and rigor to the tenth grade mathematics WASL when all segments are considered together; (iii) is reliable and valid; and (iv) can be used to determine a student's academic performance level; (b) tenth grade mathematics knowledge and skill learning modules to teach middle and high school students specific skills that have been identified as areas of difficulty for tenth grade students; and (c) making the modules available on-line.

((~~(5)~~)) (6) $2,267,000 of the general fund—state appropriation for fiscal year 2009 and $2,367,000 of the education legacy trust account appropriation are provided solely to develop a system of mathematics and science standards and instructional materials that are internationally competitive and consistent with emerging best practices research. Funding in this subsection shall fund all of the following specific projects:

(a) The office of the superintendent of public instruction shall adopt revised state standards in mathematics as directed by Second Substitute House Bill No. 1906 (improving mathematics and science education). Activities include conducting research at the request of the state board of education, engaging one or more national experts in mathematics selected by the board, and convening

education practitioners and community members in an advisory capacity regarding revised standards in mathematics.

(b) The office of the superintendent of public instruction, in consultation with the state board of education, shall research and identify not more than three basic mathematics curricula as well as diagnostic and supplemental instructional materials for elementary, middle, and high school grade spans that align with the revised mathematics standards.

(c) The office of the superintendent of public instruction shall adopt revised state standards in science as directed by Second Substitute House Bill No. 1906 (improving mathematics and science education. Activities include conducting research at the request of the state board of education, engaging one or more national experts in science selected by the board, and convening education practitioners and community members in an advisory capacity regarding revised standards in science.

(d) The office of the superintendent of public instruction, in consultation with the state board of education, shall research and identify not more than three basic science curricula as well as diagnostic and supplemental instructional materials for elementary, middle, and high school grade spans that align with the revised science standards.

(e) The office of the superintendent of public instruction shall evaluate science textbooks, instructional materials, and diagnostic tools to determine the extent to which they are aligned with the revised science standards. Once the evaluations have been conducted, results will be shared with science teachers, other educators, and community members.

(f) Funding is provided for the office of the superintendent of public instruction to develop WASL knowledge and skill learning modules to assist students performing at tenth grade level 1 and level 2 in science.

(g) Of the amounts provided in this subsection, $300,000 is provided solely to the state board of education to increase capacity to implement the provisions of Second Substitute House Bill No. 1906 (improving mathematics and science education) and Engrossed Second Substitute Senate Bill No. 6023 (regarding alternative assessments).

((~~(6)~~)) (7) $8,950,000 of the education legacy trust account appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of two additional professional development days each school year for fourth and fifth grade teachers. The allocations shall be made based on the calculations of certificated instructional staff units for fourth and fifth grade provided in section 502 of this act and on the calculations of compensation provided in sections 503 and 504 of this act. Allocations made pursuant to this subsection are intended to be formula-driven, and the office of the superintendent of public instruction shall provide updated projections of the relevant budget drivers by November 20, 2007, and by November 20, 2008. In the 2007-08 school year, the professional development activities funded by this subsection shall be focused on development of mathematics knowledge and instructional skills and on improving instruction in science. In the 2008-09 school year, the additional professional development shall focus on skills related to implementing the new international mathematics and science standards and curriculum. Districts may use the funding to support additional days for

professional development as well as job-embedded forms of professional development.

(((~~(7)~~))) (8) $13,058,000 of the education legacy trust fund appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of three additional professional development days for middle and high school math teachers and the equivalent of three additional professional development days for middle and high school science teachers. The office of the superintendent of public instruction shall develop rules to determine the number of math and science teachers in middle and high schools within each district. Allocations made pursuant to this subsection are intended to be formula-driven, and the office of the superintendent of public instruction shall provide updated projections of the relevant budget drivers by November 20, 2007, and by November 20, 2008. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development, consistent with the following:

(a) For middle school teachers during the 2007-08 school year the additional math professional development funded in this subsection shall focus on development of basic mathematics knowledge and instructional skills and the additional science professional development shall focus on examination of student science assessment data and identification of science knowledge and skill areas in need of additional instructional attention. For middle school teachers during the 2008-09 school year the additional math professional development shall focus on skills related to implementing the new international mathematics standards and the additional science professional development shall focus on skills related to implementing the new international science standards.

(b) For high school teachers during the 2007-08 school year the additional math professional development funded in this subsection shall focus on skills related to implementing state math learning modules, the segmented math class/ assessment program, the collection of evidence alternative assessment, and basic mathematics knowledge and instructional skills, and the additional science professional development shall focus on skills related to examination of student science assessment data and identification of science knowledge and skill areas in need of additional instructional attention. For high school teachers during the 2008-09 school year the additional math professional development shall focus on skills related to implementing the new international mathematics standards and the additional science professional development shall focus on skills related to implementing the new international science standards.

(((~~(8)~~))) (9) $17,491,000 of the education legacy trust fund appropriation is provided solely for allocations to districts for specialized professional development in math for one math teacher and one science teacher in each middle school and one math teacher and one science teacher in each high school. The allocations shall be based on five additional professional development days per teacher and an additional allocation per teacher of $1,500 for training costs. In order to generate an allocation under this subsection, a teacher must participate in specialized professional development that leads to the implementation of mathematics and science courses that add new rigor to the math and science course offerings in the school. Allocations made pursuant to this subsection are intended to be formula-driven, and the office of the

superintendent of public instruction shall provide updated projections of the relevant budget drivers by November 20, 2007, and by November 20, 2008.

((~~(9)~~)) (10) $5,376,000 of the education legacy trust account—state appropriation is provided solely for a math and science instructional coaches program pursuant to Second Substitute House Bill No. 1906 (improving mathematics and science education). Funding shall be used to provide grants to schools and districts to provide salaries, benefits, and professional development activities to twenty-five instructional coaches in middle and high school math in the 2007-08 and 2008-09 school years and twenty-five instructional coaches in middle and high school science in the 2008-09 school years; and up to $300,000 may be used by the office of the superintendent of public instruction to administer and coordinate the program. Each instructional coach will receive five days of training at a coaching institute prior to being assigned to serve two schools each. These coaches will attend meetings during the year to further their training and assist with coordinating statewide trainings on math and science.

((~~(10)~~)) (11) ((~~$1,500,000~~)) $1,133,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$1,500,000~~)) $1,133,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to allow approved middle and junior high school career and technical education programs to receive enhanced vocational funding pursuant to Second Substitute House Bill No. 1906 (improving mathematics and science education). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse. The office of the superintendent of public instruction shall provide allocations to districts for middle and junior high school students in accordance with the funding formulas provided in section 502 of this act. Although the allocations are formula-driven, the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall adjust funding to stay within the amounts provided in this subsection.

((~~(11)~~)) (12) $143,000 of the general fund—state appropriation for fiscal year 2008 and $139,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for (a) staff at the office of the superintendent of public instruction to coordinate and promote efforts to develop integrated math, science, technology, and engineering programs in schools and districts across the state; and (b) grants of $2,500 to provide twenty middle and high school teachers each year professional development training for implementing integrated math, science, technology, and engineering program in their schools.

((~~(12)~~)) (13) $5,303,000 of the general fund—state appropriation for fiscal year 2008 and $5,303,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for in-service training and educational programs conducted by the Pacific science center and for the Washington state leadership assistance for science education reform (LASER) regional partnership coordinated at the Pacific science center.

((~~(13) $675,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to support state college readiness assessment fees for eleventh grade students. The office of the superintendent of public instruction shall allocate funds for this purpose to school districts based on the number of eleventh grade students who complete the college readiness exam. School districts shall use these funds to reimburse institutions of higher education for~~

~~the assessments students take and report to the office of the superintendent of public instruction on the number of assessments provided.~~))

(14) ((~~$51,236,000~~)) $51,701,000 of the education legacy trust account—state appropriation is provided solely for grants for voluntary full-day kindergarten at the highest poverty schools, as provided in Engrossed Second Substitute Senate Bill 5841 (enhancing student learning opportunities and achievement). The office of the superintendent of public instruction shall provide allocations to districts for recipient schools in accordance with the funding formulas provided in section 502 of this act. Each kindergarten student who enrolls for the voluntary full-day program in a recipient school shall count as one-half of one full-time equivalent student for the purpose of making allocations under this subsection. Although the allocations are formula-driven, the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall limit the number of recipient schools so as to stay within the amounts appropriated each fiscal year in this subsection. The funding provided in this subsection is estimated to provide full-day kindergarten programs for 10 percent of kindergarten enrollment in the 2007-08 school year and 20 percent of kindergarten enrollment in the 2008-09 school year. Funding priority shall be given to schools with the highest poverty levels, as measured by prior year free and reduced priced lunch eligibility rates in each school. Additionally, as a condition of funding, school districts must agree to provide the full-day program to the children of parents who request it in each eligible school. For the purposes of calculating a school district levy base, funding provided in this subsection shall be considered a state block grant program under RCW 84.52.0531.

(a) Of the amounts provided in this subsection, a maximum of $272,000 may be used for administrative support of the full-day kindergarten program within the office of the superintendent of public instruction.

(b) Student enrollment pursuant to this program shall not be included in the determination of a school district's overall K-12 FTE for the allocation of student achievement programs and other funding formulas unless specifically stated.

(15) $65,000 of the general fund—state appropriation for fiscal year 2008 and $65,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support a full-day kindergarten "lighthouse" resource program at the Bremerton school district, as provided in Engrossed Second Senate Bill No. 5841 (enhancing student learning opportunities and achievement). The purpose of the program is to provide technical assistance to districts in the initial stages of implementing a high quality full-day kindergarten program.

(16) $3,047,000 of the education legacy trust account—state appropriation is provided solely for grants for three demonstration projects for kindergarten through grade three. The purpose of the grants is to implement best practices in developmental learning in kindergarten through third grade pursuant to Engrossed Second Substitute Senate Bill No. 5841 (enhancing student learning opportunities and achievement).

(17) $300,000 of the general fund—state appropriation for fiscal year 2008 and $1,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the development of a leadership academy for school principals and administrators. The superintendent of public instruction shall contract with an independent organization to design, field test, and implement a

state-of-the-art education leadership academy that will be accessible throughout the state. Initial development of the content of the academy activities shall be supported by private funds. Semiannually the independent organization shall report on amounts committed by foundations and others to support the development and implementation of this program. Leadership academy partners, with varying roles, shall include the state level organizations for school administrators and principals, the superintendent of public instruction, the professional educator standards board, and others as the independent organization shall identify.

(18) $661,000 of the general fund—state appropriation for fiscal year 2008 and $684,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for grants to school districts to implement emerging best practices activities in support of classroom teachers' instruction of students, with a first language other than English, who struggle with acquiring academic English skills, as outlined in Engrossed Second Substitute Senate Bill No. 5841 (enhancing student learning opportunities and achievement). Best practices shall focus on professional development for classroom teachers and support of instruction for English language learners in regular classrooms. School districts qualifying for these grants shall serve a student population that reflects many different first languages among their students. The Northwest educational research laboratory (NWREL) shall evaluate the effectiveness of the practices supported by the grants as provided in section 501 of this act. Recipients of these grants shall cooperate with NWREL in the collection of program data.

(19) $548,000 of the fiscal year 2008 general fund—state appropriation and $548,000 of the fiscal year 2009 general fund—state appropriation are provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

(20) $2,348,000 of the general fund—state appropriation for fiscal year 2008 and $2,348,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260, and for a mentor academy. Up to $200,000 of the amount in this subsection may be used each fiscal year to operate a mentor academy to help districts provide effective training for peer mentors. Funds for the teacher assistance program shall be allocated to school districts based on the number of first year beginning teachers.

(21) $705,000 of the general fund—state appropriation for fiscal year 2008 and $705,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(22) ((~~$98,761,000~~)) $105,765,000 of the general fund—federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

(23)(a) $488,000 of the general fund—state appropriation for fiscal year 2008 and $488,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a principal support program. The office of the superintendent of public instruction may contract with an independent organization to administer the program. The program shall include: (i) Development of an individualized professional growth plan for a new principal or principal candidate; and (ii) participation of a mentor principal who works

over a period of between one and three years with the new principal or principal candidate to help him or her build the skills identified as critical to the success of the professional growth plan. Within the amounts provided, $25,000 per year shall be used to support additional participation of secondary principals.

(b) $3,046,000 of the general fund—state appropriation for fiscal year 2008 and $3,046,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Each educational audit shall include recommendations for best practices and ways to address identified needs and shall be presented to the community in a public meeting to seek input on ways to implement the audit and its recommendations.

(24) $1,000,000 of the general fund—state appropriation for fiscal year 2008 and $1,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a high school and school district improvement program modeled after the office of the superintendent of public instruction's existing focused assistance program in subsection (25)(b) of this section. The state funding for this improvement program will match an equal amount committed by a nonprofit foundation in furtherance of a jointly funded program.

(25) A maximum of $375,000 of the general fund—state appropriation for fiscal year 2008 and a maximum of $500,000 of the general fund—state appropriation for fiscal year 2009 are provided for summer accountability institutes offered by the superintendent of public instruction. The institutes shall provide school district staff with training in the analysis of student assessment data, information regarding successful district and school teaching models, research on curriculum and instruction, and planning tools for districts to improve instruction in reading, mathematics, language arts, social studies, including civics, and guidance and counseling. The superintendent of public instruction shall offer at least one institute specifically for improving instruction in mathematics in fiscal years 2008 and 2009 and at least one institute specifically for improving instruction in science in fiscal year 2009.

(26) $515,000 of the general fund—state appropriation for fiscal year 2008 and $515,000 of the general fund—state appropriation for fiscal year 2009 are provided for the evaluation of mathematics textbooks, other instructional materials, and diagnostic tools to determine the extent to which they are aligned with the state standards. Once the evaluations have been conducted, results will be shared with math teachers, other educators, and community members for the purposes of validating the conclusions and then selecting up to three curricula, supporting materials, and diagnostic instruments as those best able to assist students to learn and teachers to teach the content of international standards. In addition, the office of the superintendent shall continue to provide support and information on essential components of comprehensive, school-based reading programs.

(27) $1,764,000 of the general fund—state appropriation for fiscal year 2008 and $1,764,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the mathematics helping corps subject to the following conditions and limitations:

(a) In order to increase the availability and quality of technical mathematics assistance statewide, the superintendent of public instruction shall employ mathematics school improvement specialists to provide assistance to schools and districts. The specialists shall be hired by and work under the direction of a statewide school improvement coordinator. The mathematics improvement specialists shall not be permanent employees of the superintendent of public instruction.

(b) The school improvement specialists shall provide the following:

(i) Assistance to schools to disaggregate student performance data and develop improvement plans based on those data;

(ii) Consultation with schools and districts concerning their performance on the Washington assessment of student learning and other assessments emphasizing the performance on the mathematics assessments;

(iii) Consultation concerning curricula that aligns with the essential academic learning requirements emphasizing the academic learning requirements for mathematics, the Washington assessment of student learning, and meets the needs of diverse learners;

(iv) Assistance in the identification and implementation of research-based instructional practices in mathematics;

(v) Staff training that emphasizes effective instructional strategies and classroom-based assessment for mathematics;

(vi) Assistance in developing and implementing family and community involvement programs emphasizing mathematics; and

(vii) Other assistance to schools and school districts intended to improve student mathematics learning.

(28) $125,000 of the general fund—state appropriation for fiscal year 2008 and $125,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the improvement of reading achievement and implementation of research-based reading models. The superintendent shall evaluate reading curriculum programs and other instructional materials to determine the extent to which they are aligned with state standards. A report of the analyses shall be made available to school districts. The superintendent shall report to districts the assessments that are available to screen and diagnose reading difficulties, and shall provide training on how to implement a reading assessment system. Resources may also be used to disseminate grade level expectations and develop professional development modules and web-based materials.

(29) ((~~$30,401,000~~)) $30,706,000 of the general fund—federal appropriation is provided for the reading first program under Title I of the no child left behind act.

(a) $500,000 of the general fund—state appropriation for fiscal year 2008 ((~~and $500,000 of the general fund—state appropriation for fiscal year 2009 are~~)) is provided solely for the office of the superintendent of public instruction to award five grants to parent, community, and school district partnership programs that will meet the unique needs of different groups of students in closing the achievement gap. The legislature intends that the pilot programs will help students meet state learning standards, achieve the skills and knowledge necessary for college or the workplace, reduce the achievement gap, prevent dropouts, and improve graduation rates.

(b) The pilot programs shall be designed in such a way as to be supplemental to educational services provided in the district and shall utilize a community partnership based approach to helping students and their parents.

(c) The grant recipients shall work in collaboration with the office of the superintendent of public instruction to develop measurable goals and evaluation methodologies for the pilot programs. $25,000 of this appropriation may be used by the office of the superintendent of public instruction to hold a statewide meeting to disseminate successful strategies developed by the grantees.

(d) The office of the superintendent of public instruction shall issue a report to the legislature in the 2009 session on the progress of each of the pilot programs.

(30) $1,500,000 of the general fund—state appropriation for fiscal year 2008 and $1,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the office of the superintendent of public instruction to support and award Washington community learning center program grants pursuant to Engrossed Second Substitute Senate Bill No. 5841 (enhancing student learning opportunities and achievement). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(31) ((~~$1,629,000~~)) $1,643,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$1,638,000~~)) $1,667,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to eliminate the lunch co-pay for students in grades kindergarten through third grade that are eligible for reduced price lunch.

(32) $400,000 of the education legacy trust account—state appropriation is provided solely for the development of mathematics support activities provided by community organizations in after school programs. Pursuant to Second Substitute House Bill No. 1906 (improving mathematics and science education), the office of the superintendent of public instruction shall administer grants to community organizations that partner with school districts to provide these activities and develop a mechanism to report program and student success.

(33) $5,222,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$5,222,000~~)) $5,285,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for: (a) The meals for kids program under RCW 28A.235.145 through 28A.235.155; (b) to eliminate the breakfast co-pay for students eligible for reduced price lunch; and (c) for additional assistance for school districts initiating a summer food service program.

(34) $1,056,000 of the general fund—state appropriation for fiscal year 2008 and $1,056,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Washington reading corps. The superintendent shall allocate reading corps members to low-performing schools and school districts that are implementing comprehensive, proven, research-based reading programs. Two or more schools may combine their Washington reading corps programs. Grants provided under this section may be used by school districts for expenditures from September 2007 through August 31, 2009.

(35) $3,594,000 of the general fund—state appropriation for fiscal year 2008 and $3,594,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively

with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(36) $1,959,000 of the general fund—state appropriation for fiscal year 2008 and $1,959,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW. The superintendent of public instruction shall coordinate a process to facilitate the evaluation and provision of online curriculum courses to school districts which includes the following: Creation of a general listing of the types of available online curriculum courses; a survey conducted by each regional educational technology support center of school districts in its region regarding the types of online curriculum courses desired by school districts; a process to evaluate and recommend to school districts the best online courses in terms of curriculum, student performance, and cost; and assistance to school districts in procuring and providing the courses to students.

(37) $126,000 of the general fund—state appropriation for fiscal year 2008 and $126,000 of the general fund—state appropriation for fiscal year 2009 are provided for the development and posting of web-based instructional tools, assessment data, and other information that assists schools and teachers implementing higher academic standards.

(38) $333,000 of the general fund—state appropriation for fiscal year 2008 and $333,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the operation of the center for the improvement of student learning pursuant to RCW 28A.300.130.

(39) $12,400,000 of the education legacy trust account—state appropriation is provided solely for one-time allocations for technology upgrades and improvements. The funding shall be allocated based on $3,000 for each elementary school, $6,000 for each middle or junior high school, and $11,000 for each high school. In cases where a particular school's grade span or configuration does not fall into these categories, the office of superintendent of public instruction will develop an allocation to that school that recognizes the unique characteristics but maintains the proportionate allocation identified in this subsection.

(40) $250,000 of the education legacy trust account—state appropriation is provided solely for costs associated with office of the superintendent of public instruction establishing a statewide director of technology position pursuant to Second Substitute House Bill No. 1906 (improving mathematics and science education). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(41)(a) ((~~$9,150,000~~)) $9,747,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$12,447,000~~)) $16,624,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the following bonuses for teachers who hold valid, unexpired certification from the national board for

professional teaching standards and who are teaching in a Washington public school, subject to the following conditions and limitations:

(i) For national board certified teachers, a bonus of $5,000 per teacher in fiscal year 2008 and adjusted for inflation in fiscal year 2009. Beginning in the 2007-2008 school year and thereafter, national board certified teachers who become public school principals shall continue to receive this bonus for as long as they are principals and maintain the national board certification;

(ii) During the 2007-2008 school year, for national board certified teachers who teach in schools where at least 70 percent of student headcount enrollment is eligible for the federal free or reduced price lunch program, an additional $5,000 annual bonus to be paid in one lump sum. Beginning in the 2008-2009 school year and thereafter, an additional $5,000 annual bonus shall be paid to national board certified teachers who teach in either: (A) High schools where at least 50 percent of student headcount enrollment is eligible for federal free or reduced price lunch, (B) middle schools where at least 60 percent of student headcount enrollment is eligible for federal free or reduced price lunch, or (C) elementary schools where at least 70 percent of student headcount enrollment is eligible for federal free or reduced price lunch; and

(iii) The superintendent of public instruction shall adopt rules to ensure that national board certified teachers meet the qualifications for bonuses under (a)(ii) of this subsection for less than one full school year receive bonuses in a pro-rated manner.

(b) Included in the amounts provided in this subsection are amounts for mandatory fringe benefits. Unless Senate Bill No. 6657 (salary bonuses for individuals certified by the national board for professional teaching standards) is enacted by June 30, 2008, the annual bonus shall not be included in the definition of "earnable compensation" under RCW 41.32.010(10).

(c) For purposes of this subsection, "((~~schools where at least 70~~)) the percent of the student headcount enrollment ((~~is~~)) eligible for the federal free or reduced price lunch program" shall be defined as: (i) For the 2007-08 and the 2008-09 school years, schools in which the prior year percentage of students eligible for the federal free and reduced price lunch program ((~~was at least 70 percent~~)) meets the criteria specified in subsection (41)(a)(ii) of this section; and (ii) in the 2008-09 school year, any school that met the criterion in (c)(i) of this subsection in the 2007-08 school year.

(d) Within the amounts appropriated in this subsection, the office of superintendent of public instruction shall revise rules to allow teachers who hold valid, unexpired certification from the national board for professional teaching standards and who are teaching at the Washington school for the deaf or Washington school for the blind, to receive the annual bonus amounts specified in this subsection if they are otherwise eligible.

(42) $2,750,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Second Substitute Senate Bill No. 6377 (career and technical education). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(43) $4,000,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for an allocation of four dollars and nine cents per full-time equivalent student, or as much as the funding in this subsection will allow, to maintain and improve library materials, collections, and services. The

funding provided in this subsection shall be used to augment current funding for librarian programs provided through basic education and other existing funding mechanisms. In order to receive allocations under this section, school districts must agree that to the maximum extent possible they will ensure that library programs and services are equitably provided throughout the district.

(44) $600,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Second Substitute Senate Bill No. 6483 (local farms-healthy kids and communities). Of the amount provided in subsection, up to $30,000 is provided for administrative costs associated with implementing the legislation and at least $570,000 is provided for grants to school districts associated with implementing the legislation. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(45) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6673 (student learning opportunities) which requires the office of the superintendent of public instruction to explore online curriculum support in languages other than English. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(46) $500,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the summer programs for middle and high school students to explore career opportunities rich in math, science, and technology using career and technical education as the delivery model, pursuant to Second Substitute Senate Bill No. 6673 (student learning opportunities). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(47) $250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for grants to five skills centers to develop and plan for implementation of integrated English language development/career skills programs that pair English language development teachers with career/technical education instructors in the classroom. The office of the superintendent of public instruction and skill center staff shall work with the state board for community and technical colleges I-BEST program staff and local community and technical college program staff to develop the program to assure critical program elements are included and that the skill center programs provide a seamless transition for high school students to the community and technical college programs for students choosing that pathway. The request for proposal or grant application shall be issued no later than May 1, 2008, so that grant recipients can begin program planning and development efforts on July 1, 2008. The superintendent of public instruction shall provide the resulting implementation plans to the governor and the appropriate committees of the legislature by November 1, 2008.

(48) $70,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to support the Chinese exchange program at the Peninsula school district. The funding shall support scholarships, educational programs, and travel costs for students facing financial obstacles to participation in the program.

(49) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to support public high schools' participation in the FIRST robotics program. The office of the superintendent of public instruction shall

issue grants not to exceed $10,000 per school to be used for teacher stipends, registration fees, equipment, and other costs associated with direct participation in the program. High-poverty schools and schools starting up robotics programs shall be given priority in funding.

***Sec. 511 was partially vetoed. See message at end of chapter.**

Sec. 512. 2007 c 522 s 514 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$65,320,000~~)) $65,595,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$69,217,000~~)) $69,560,000

General Fund—Federal Appropriation $45,243,000

TOTAL APPROPRIATION . . . . . ((~~$179,780,000~~)) $180,398,000

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

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

(2) The superintendent shall distribute a maximum of ((~~$824.24~~)) $824.12 per eligible bilingual student in the 2007-08 school year and ((~~$840.25~~)) $840.64 in the 2008-09 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.

(3) The superintendent may withhold up to 1.5 percent of the school year allocations to school districts in subsection (2) of this section, and adjust the per eligible pupil rates in subsection (2) of this section accordingly, solely for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2).

(4) $70,000 of the amounts appropriated in this section are provided solely to track current and former transitional bilingual program students.

(5) The general fund—federal appropriation in this section is provided for migrant education under Title I Part C and English language acquisition, and language enhancement grants under Title III of the elementary and secondary education act.

(6) Pursuant to RCW 28A.150.260, during the 2007-09 biennium, the office of the superintendent of public instruction shall not make exit of the transitional bilingual program contingent on passing both the Washington language proficiency test and the Washington assessment of student learning without prior legislative approval.

Sec. 513. 2007 c 522 s 515 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM

General Fund—State Appropriation (FY 2008) . . . . . ((~~$70,792,000~~)) $68,381,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$73,156,000~~)) $84,654,000

General Fund—Federal Appropriation $360,660,000

Education Legacy Trust Account—State
Appropriation. 45,953,000
TOTAL APPROPRIATION . . . . . ((~~$550,561,000~~))
$559,648,000

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

(1) The general fund—state appropriations in this section are subject to the following conditions and limitations:

(a) The appropriations include such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) Funding for school district learning assistance programs shall be allocated at maximum rates of ((~~$220.37~~)) $220.34 per funded student for the 2007-08 school year and ((~~$224.73~~)) $265.08 per funded student for the 2008-09 school year exclusive of salary and benefit adjustments provided under section 504 of this act.

(c) A school district's funded students for the learning assistance program shall be the sum of the following as appropriate:

(i) The district's full-time equivalent enrollment in grades K-12 for the prior school year multiplied by the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch in the prior school year; and

(ii) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch exceeded forty percent, subtract forty percent from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the prior school year.

(d) In addition to amounts allocated in (b) and (c) of this subsection, an additional amount shall be allocated to a school district for each school year in which the district's allocation is less than the amount the district received for the general fund—state learning assistance program allocation in the 2004-05 school year. The amount of the allocation in this section shall be sufficient to maintain the 2004-05 school year allocation.

(e) If Second Substitute Senate Bill No. 6673 (student learning opportunities) is enacted by June 30, 2008, in addition to the amounts allocated in (b), (c), and (d) of this subsection, an additional amount shall be allocated to school districts with high concentrations of poverty and English language learner students beginning in the 2008-2009 school year, subject to the following rules and conditions:

(i) To qualify for additional funding under this subsection, a district's October headcount enrollment in grades kindergarten through grade twelve must have at least twenty percent enrolled in the transitional bilingual instruction program based on an average of the program headcount taken in October and May of the prior school year; and must also have at least forty percent eligible for free or reduced price lunch based on October headcount enrollment in grades kindergarten through twelve in the prior school year.

(ii) Districts meeting the specifications in (e)(i) of this subsection shall receive additional funded students for the learning assistance program at the rates specified in subsection (1)(b) of this section. The number of additional

funded student units shall be calculated by subtracting twenty percent from the district's percent transitional bilingual instruction program enrollment as defined in (e)(i) of this subsection, and the resulting percent shall be multiplied by the district's kindergarten through twelve annual average full-time equivalent enrollment for the prior school year.

(2) The general fund—federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

(3) Small school districts are encouraged to make the most efficient use of the funding provided by using regional educational service district cooperatives to hire staff, provide professional development activities, and implement reading and mathematics programs consistent with research-based guidelines provided by the office of the superintendent of public instruction.

(4) A school district may carry over from one year to the next up to 10 percent of the general fund—state or education legacy trust funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

(5) School districts are encouraged to coordinate the use of these funds with other federal, state, and local sources to serve students who are below grade level and to make efficient use of resources in meeting the needs of students with the greatest academic deficits.

(6) $15,065,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6673 (student learning opportunities) which establishes the extended learning program to provide additional instructional services for eligible students in grades eight, eleven, and twelve during the regular school day, evenings, on weekends, or at other times in order to meet the needs of these students. This funding is in addition to the estimated $986,000 of associated compensation increases associated with this legislation in section 504 of this act. If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

Sec. 514. 2007 c 522 s 516 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—PROMOTING ACADEMIC SUCCESS

General Fund—State Appropriation (FY 2008) . . . . . ((~~$23,820,000~~))
$12,108,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$25,177,000~~))
$4,759,000
TOTAL APPROPRIATION . . . . . ((~~$48,997,000~~))
$16,867,000

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

(1) ((~~The~~)) Except as provided in subsection (4) of this section, the amounts appropriated in this section are provided solely for remediation for students who have not met standard in one or more content areas of the Washington assessment of student learning in the spring of their tenth grade year or on a subsequent retake. The funds may be used for extended learning activities, including summer school, before and after school, Saturday classes, skill seminars, assessment preparation, and in-school or out-of-school tutoring.

Extended learning activities may occur on the school campus, via the internet, or at other locations and times that meet student needs. Funds allocated under this section shall not be considered basic education funding. Amounts allocated under this section shall fund new extended learning opportunities, and shall not supplant funding for existing programs and services.

(2) School district allocations for promoting academic success programs shall be calculated as follows:

(a) Allocations shall be made to districts only for students actually served in a promoting academic success program.

(b) A portion of the district's annual student units shall be the number of content area assessments (reading, writing, and mathematics) on which eleventh and twelfth grade students were more than one standard error of measurement from meeting standard on the WASL in their most recent attempt to pass the WASL.

(c) The other portion of the district's annual student units shall be the number of content area assessments (reading, writing, and mathematics) on which eleventh and twelfth grade students were less than one standard error of measurement from meeting standard but did not meet standard on the WASL in their most recent attempt to pass the WASL.

(d) Districts with at least one but less than 20 student units combining the student units generated from (b) and (c) of this subsection shall be counted as having 20 student units for the purposes of the allocations in (e) and (f)(i) of this subsection.

(e) Allocations for certificated instructional staff salaries and benefits shall be determined using formula-generated staff units calculated pursuant to this subsection. Ninety-four hours of certificated instructional staff units are allocated per 13.0 student units as calculated under (a) of this subsection and thirty-four hours of certificated instructional staff units are allocated per 13.0 student units as calculated under (b) of this subsection. Allocations for salaries and benefits for the staff units calculated under this subsection shall be calculated in the same manner as provided under section 503 of this act. Salary and benefit increase funding for staff units generated under this section is included in section 504 of this act.

(f) The following additional allocations are provided per student unit, as calculated in (a) and (b) of this subsection:

(i) $12.80 in school year 2007-08 ((~~and $13.07 in school year 2008-09~~)) for maintenance, operations, and transportation;

(ii) $12.29 in school year 2007-08 ((~~and $12.55 in school year 2008-09~~)) for pre- and post-remediation assessments;

(iii) $17.41 in school year 2007-08 ((~~and $17.77 in school year 2008-09~~)) per reading remediation student unit;

(iv) $8.19 in school year 2007-08 ((~~and $8.36 in school year 2008-09~~)) per mathematics remediation student unit; and

(v) $8.19 in school year 2007-08 ((~~and $8.36 in school year 2008-09~~)) per writing remediation student unit.

(f) The superintendent of public instruction shall distribute school year allocations according to the monthly apportionment schedule defined in RCW 28A.510.250.

(3) By November 15th of each year, the office of the superintendent of public instruction shall report to the appropriate committees of the legislature and to the office of financial management on the use of these funds in the prior school year, including the types of assistance selected by students, the number of students receiving each type of assistance, and the impact on WASL test scores. The office of the superintendent for public instruction shall complete its review and make adjustments to district reporting procedures to ensure consistency of reporting categories and minimize district administrative workload.

(4) School districts may carry over from one year to the next up to 20 percent of funds allocated under this program((~~; however,~~)). Carryover funds shall be expended for ((~~promoting academic success programs~~)) extended learning activities as described in subsection (1) of this section. Carryover funds may be expended for students eligible for the promoting academic success program as described in subsection (1) of this section or for ninth and tenth grade students determined to be at risk of not passing one or more content areas of the WASL based on eighth grade assessment scores.

(5) After the 2007-2008 school year, funding for the promoting academic success program is discontinued.

Sec. 515. 2007 c 522 s 517 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STUDENT ACHIEVEMENT PROGRAM

Student Achievement Account—State Appropriation
(FY 2008). . . . . ((~~$423,414,000~~))
$423,369,000

Student Achievement Account—State Appropriation
(FY 2009). . . . . ((~~$446,357,000~~))
$444,970,000

TOTAL APPROPRIATION . . . . . ((~~$869,771,000~~))
$868,339,000

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

(1) Funding for school district student achievement programs shall be allocated at a maximum rate of $450.00 per FTE student for the 2007-08 school year and ((~~$459.45~~)) $458.10 per FTE student for the 2008-09 school year. For the purposes of this section, FTE student refers to the annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year, as reported to the office of the superintendent of public instruction by August 31st of the previous school year.

(2) The appropriation is allocated for the following uses as specified in RCW 28A.505.210:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year,

extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school; or

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection (2).

(3) The superintendent of public instruction shall distribute the school year allocation according to the monthly apportionment schedule defined in RCW 28A.510.250.

Sec. 516. 2007 c 522 s 519 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION. (1) Appropriations made in this act to the office of superintendent of public instruction shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act, except as expressly provided in subsection (2) of this section.

(2) The appropriations to the office of the superintendent of public instruction in this act shall be expended for the programs and amounts specified in this act. However, after May 1, 2008, unless specifically prohibited by this act and after approval by the director of financial management, the superintendent of public instruction may transfer state general fund appropriations for fiscal year 2008 among the following programs to meet the apportionment schedule for a specified formula in another of these programs: General apportionment; employee compensation adjustments; pupil transportation; special education programs; institutional education programs; transitional bilingual programs; and learning assistance programs.

(3) The director of financial management shall notify the appropriate legislative fiscal committees in writing prior to approving any allotment modifications or transfers under this section.

NEW SECTION. **Sec. 517.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION—PENSION CONTRIBUTIONS RATES FOR NATIONAL BOARD CERTIFICATION. $2,144,000 of the general fund—state appropriations for fiscal year 2009 in part V of this act are provided solely for the implementation of Senate Bill No. 6657 (salary bonuses for individuals certified by the national board for professional teaching standards). If the bill is not enacted by June 30, 2008, the amounts provided in part V of this act for this purpose shall lapse and the office of superintendent of public instruction, in consultation with the office of financial management and the office of state

actuary, shall adjust the appropriate formula allocation factors and rates in part V of this act to reflect the adjusted employer pension contribution rates for the teachers' retirement system. The office of superintendent of public instruction shall notify school districts of any rate adjustments and formula allocation changes under this section as soon as possible, but no later than July 1, 2008.

PART VI
HIGHER EDUCATION

***Sec. 601.** 2007 c 522 s 601 (uncodified) is amended to read as follows:

The appropriations in sections 603 through 609 of this act, and sections 605 through 611 of this 2008 act, are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 603 through 609 of this act and sections 605 through 611 of this 2008 act.

(2)(a) The salary increases provided or referenced in this subsection and described in section 603 and part IX of this act and section 605 of this 2008 act shall be the only allowable salary increases provided at institutions of higher education, excluding increases associated with normally occurring promotions and increases related to faculty and professional staff retention, and excluding increases associated with employees under the jurisdiction of chapter 41.56 RCW.

(b) For employees under the jurisdiction of chapter 41.56 RCW, salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated.

(c) Each institution of higher education receiving appropriations for salary increases under sections 604 through 609 of this act, and sections 605 through 611 of this 2008 act may provide additional salary increases from other sources to instructional and research faculty, exempt professional staff, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under ((~~RCW 28B.16.015~~)) chapter 41.80 RCW. Any additional salary increase granted under the authority of this subsection (2)(c) shall not be included in an institution's salary base for future state funding. It is the intent of the legislature that general fund—state support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (2)(c).

(d) The legislature, the office of financial management, and other state agencies need consistent and accurate personnel data from institutions of higher education for policy planning purposes. Institutions of higher education shall report personnel data to the department of personnel for inclusion in the department's data warehouse. Uniform reporting procedures shall be established by the department of personnel for use by the reporting institutions, including provisions for common job classifications and common definitions of full-time equivalent staff. Annual contract amounts, number of

contract months, and funding sources shall be consistently reported for employees under contract.

(e) By January 1, 2008, the office of financial management shall work with the institutions of higher education, and with staff from the legislative fiscal committees and the legislative evaluation and accountability program, to identify ways in which the office's "compensation impact model" should be revised or replaced to make the system less costly for institutions to maintain, and more transparent, informative, and useful to the legislature and institutions, while providing information needed to accurately and efficiently negotiate and budget employee compensation changes.

(3) The technical colleges may increase tuition and fees in excess of the fiscal growth factor to conform with the percentage increase in community college operating fees.

(4) The tuition fees, as defined in chapter 28B.15 RCW, charged to full-time students at the state's institutions of higher education for the 2007-08 and 2008-09 academic years, other than the summer term, shall be adjusted by the governing boards of the state universities, regional universities, The Evergreen State College, and the state board for community and technical colleges. Tuition fees may be increased in excess of the fiscal growth factor under RCW 43.135.055.

For the 2007-08 academic year, the governing boards of the research universities may implement an increase no greater than seven percent over tuition fees charged to full-time resident undergraduate students for the 2006-07 academic year. The regional universities and The Evergreen State College may implement an increase no greater than five percent over tuition fees charged to full-time resident undergraduate students for the 2006-07 academic year. The state board for community and technical colleges may implement an increase no greater than an average of two percent over tuition and fees charged to ((~~full-time~~)) resident students for the 2006-07 academic year. The board may increase tuition and fees differentially according to quarterly credit hour load, provided the overall increase in average tuition revenue per resident student does not exceed 2.0 percent.

((~~For the 2008-09 academic year, the governing boards of the research universities may implement an increase no greater than seven percent over tuition fees charged to full-time resident undergraduate students for the 2007-08 academic year. The regional universities and The Evergreen State College may implement an increase no greater than five percent over tuition fees charged to full-time resident undergraduate students for the 2007-08 academic year. The state board for community and technical colleges may implement an increase no greater than two percent over tuition and fees charged to full-time resident students for the 2007-08 academic year.~~))

In addition to the tuition authorization provided under this subsection and section 603 of this act, amounts appropriated in this budget provide an amount approximately equal to a one percent tuition increase per academic year for the state board for community and technical colleges.

(5) For the 2007-09 biennium, the governing boards and the state board may adjust full-time operating fees for factors that may include time of day and day of week, as well as delivery method and campus, to encourage full use of the state's educational facilities and resources.

(6) Technical colleges may increase their building fee in excess of the fiscal growth factor until parity is reached with the community colleges.

(7) In addition to waivers granted under the authority of RCW 28B.15.910, the governing boards and the state board may waive all or a portion of operating fees for any student. State general fund appropriations shall not be provided to replace tuition and fee revenue foregone as a result of waivers granted under this subsection.

(8) Pursuant to RCW 43.135.055, institutions of higher education receiving appropriations under sections 603 through 609 of this act, and under sections 605 through 611 of this 2008 act, are authorized to increase summer term tuition in excess of the fiscal growth factor during the 2007-09 biennium. Tuition levels increased pursuant to this subsection shall not exceed the per credit hour rate calculated from the academic year tuition levels adopted under this act.

(9) Pursuant to RCW 43.135.055, community and technical colleges are authorized to increase services and activities fee charges in excess of the fiscal growth factor during the 2007-09 biennium. The services and activities fee charges increased pursuant to this subsection shall not exceed the maximum level authorized by the state board for community and technical colleges.

(10) From within the appropriations in sections 603 through 609 of this act, and in sections 605 through 611 of this 2008 act, institutions of higher education shall increase compensation for nonrepresented employees in accordance with the following:

(a) Across the Board Adjustments.

(i) Appropriations are provided for a 3.2 percent salary increase effective September 1, 2007, for all classified employees, except those represented by a collective bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, and except the certificated employees of the state schools for the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel.

(ii) Appropriations are provided for a 2.0 percent salary increase effective September 1, 2008, for all classified employees, except those represented by a collective bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, and except for the certificated employees of the state schools of the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel.

(iii) No salary increase may be paid under this subsection to any person whose salary has been Y-rated pursuant to rules adopted by the director of personnel.

(b) Salary Survey.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's 2006 salary survey, for job classes more than 25 percent below market rates and affected classes.

(c) Classification Consolidation.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's phase 4 job class consolidation and revisions under chapter 41.80 RCW.

(d) Agency Request Consolidation.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's agency request job class consolidation and reclassification plan. This implementation fully satisfies the conditions specified in the settlement agreement of *WPEA v State/Shroll v State*.

(e) Additional Pay Step.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for a new pay step L for those who have been in step K for at least one year.

(f) Retain Fiscal Year 2007 Pay Increase.

For all classified state employees, except those represented by a bargaining unit under chapter 41.80, 41.56, and 47.64 RCW, and except for the certificated employees of the state schools of the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732, funding is provided for continuation of the 1.6 percent salary increase that was provided during fiscal year 2007. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel.

(g) The appropriations are also sufficient for the research and the regional higher education institutions to (i) continue the 1.6 percent salary increase that was provided during fiscal year 2007; and (ii) provide average salary increases of 3.2 percent effective September 1, 2007, and of 2.0 percent effective September 1, 2008, for faculty, exempt administrative and professional staff, graduate assistants, and for all other nonclassified employees.

(11) The appropriations in sections 605 through 611 of this act include specific funds to implement Substitute Senate Bill No. 6328 (campus safety).

***Sec. 601 was partially vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 602.** A new section is added to 2007 c 522 (uncodified) to read as follows:

PUBLIC BACCALAUREATE INSTITUTIONS. The tuition fees, as defined in RCW 28B.15.020, charged to students at the state's institutions of higher education may be adjusted by the governing boards of the state universities, regional universities, and The Evergreen State College for the 2007-08 and 2008-09 academic years, including summer sessions, subject to the limitations set forth in this section.

Additionally, the fees charged students at the institutions of higher education for enrollment in self-supporting degree programs including summer school, authorized by RCW 28B.15.031, and all other fees authorized by RCW 28B.15.031, may be adjusted by the governing boards of the state universities, regional universities, and The Evergreen State College for the 2007-08 and 2008-09 academic years, subject to the limitations set forth as follows:

(1) For the 2008-09 academic year, the governing boards of the research universities may implement an increase no greater than seven percent over tuition fees charged to resident undergraduate students for the 2007-08 academic

year. The regional universities and The Evergreen State College may implement an increase no greater than five percent over tuition fees charged to resident undergraduate students for the 2007-08 academic year.

(2) For the 2008-09 academic year, each of the governing boards of the public four-year institutions is authorized to raise nonresident undergraduate and resident and nonresident graduate and professional tuition pursuant to RCW 28B.15.067.

(3) For the 2008-09 academic year, each of the governing boards of the public four-year institutions is authorized to raise summer quarter or semester enrollment fees for resident and nonresident undergraduate, graduate, and professional students pursuant to RCW 28B.15.067.

(4) For the 2008-09 academic year, each of the governing boards of the public four-year institutions is authorized to increase fees for fee-based degree programs; fee-based credit courses; fee-based noncredit workshops and courses; and fee-based special contract courses.

(5) For the 2008-09 academic year, each of the governing boards of the public four-year institutions is authorized to increase services and activities fees for all categories of students by the amounts authorized in RCW 28B.15.069.

(6) For the 2008-09 academic year, each of the governing boards of the public four-year institutions is authorized to adopt or increase technology fees as provided in RCW 28B.15.051.

(7) For the 2008-09 academic year each of the governing boards of the public four-year institutions may adopt or increase all other fees included in RCW 28B.15.031.

NEW SECTION. **Sec. 603.** A new section is added to 2007 c 522 (uncodified) to read as follows:

STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES. (1) For the 2008-09 academic year, the state board for community and technical colleges may increase tuition and fees by no more than two percent over tuition and fees charged to resident and nonresident students for the 2007-08 academic year. For the 2007-2009 biennium, the state board for community and technical colleges may increase tuition fees under this subsection differentially based on student credit hour load at their discretion, provided that the overall increase in average tuition revenue per student does not exceed two percent.

(2) The state board for community and technical colleges may increase tuition and fees by no more than five percent over tuition and fees charged for upper division courses in applied baccalaureate programs in the 2007-08 academic year.

(3) For the 2008-09 academic year, the technical colleges may increase operating fees by no more than two percent over operating fees charged to full-time resident and nonresident students for the 2007-08 academic year, to conform with the percentage increase in community college operating fees.

(4) For the 2008-09 academic year, technical colleges may increase their building fee by three cents per clock hour and by forty-five cents per credit hour. The purpose of these fee increases is to progress towards parity with the community colleges.

(5) The state board for community and technical colleges may increase the maximum allowable services and activities fee up to two percent in the 2008-09

academic year. Pursuant to RCW 43.135.055, community and technical colleges are authorized to increase services and activities fee charges up to the maximum level authorized by the state board for community and technical colleges.

(6) During fiscal years 2008 and 2009, the community and technical colleges may increase fees as follows:

(a) Administrative fees (FY 2008 and FY 2009), up to 5.57% per fiscal year;

(b) Application fees (FY 2008 and FY 2009), up to 5.57% per fiscal year;

(c) Graduation fees (FY 2008 and FY 2009), up to 5.57% per fiscal year;

(d) Lab and class fees (FY 2008 and FY 2009), up to 5.57% per fiscal year;

(e) Testing fees (FY 2008 and FY 2009), up to 5.57% per fiscal year;

(f) Transcript fees (FY 2008 and FY 2009), up to 5.57% per fiscal year;

(g) 2-D and 3-D design lab fee (FY 2009), community and technical colleges may establish a new fee of up to $20;

(h) Student health insurance fee (FY 2009), community and technical colleges may establish a new fee of up to $25;

(i) Arts field trip fee (FY 2008), community and technical colleges may establish a new fee of up to $10;

(j) Computer lab fee (FY 2009), community and technical colleges may establish a new fee of up to $45;

(k) Credit for prior experiential learning (FY 2009), community and technical colleges may establish a new fee of up to $40;

(l) Early childhood education practicum fee (FY 2009), community and technical colleges may establish a new fee of up to $25;

(m) Electronic lab fee (FY 2009), community and technical colleges may establish a new fee of up to $95;

(n) E-portfolio fee (FY 2009), community and technical colleges may establish a new fee of up to $35;

(o) Fire science lab fee (FY 2009), community and technical colleges may establish a new fee of up to $21.20;

(p) LPN test (FY 2009), community and technical colleges may establish a new fee of up to $327;

(q) Mac studio (FY 2009), community and technical colleges may establish a new fee of up to $66.50;

(r) Materials fee A (FY 2009), community and technical colleges may establish a new fee of up to $25;

(s) Materials fee B (FY 2009), community and technical colleges may establish a new fee of up to $50;

(t) Materials fee C (FY 2009), community and technical colleges may establish a new fee of up to $75;

(u) Materials fee D (FY 2009), community and technical colleges may establish a new fee of up to $100;

(v) Math course fee (FY 2009), community and technical colleges may establish a new fee of up to $10;

(w) Media production fee (FY 2009), community and technical colleges may establish a new fee of up to $30;

(x) Patient care tech fee (FY 2009), community and technical colleges may establish a new fee of up to $66.10;

(y) Payment plan fee (FY 2009), community and technical colleges may establish a new fee of up to $25;

(z) Photography deposit (FY 2009), community and technical colleges may establish a new fee of up to $150;

(aa) Printing fee A (FY 2009), community and technical colleges may establish a new fee of up to $20;

(bb) Printing fee B (FY 2009), community and technical colleges may establish a new fee of up to $40;

(cc) Printing fee C (FY 2009), community and technical colleges may establish a new fee of up to $60;

(dd) Printing fee D (FY 2009), community and technical colleges may establish a new fee of up to $80;

(ee) Respiratory care data ARC fee (FY 2009), community and technical colleges may establish a new fee of up to $60;

(ff) Respiratory care testing fee (FY 2009), community and technical colleges may establish a new fee of up to $40;

(gg) RN test (FY 2009), community and technical colleges may establish a new fee of up to $360;

(hh) Selective admission fee (FY 2009), community and technical colleges may establish a new fee of up to $40;

(ii) Surgical tech preassessment (FY 2008), community and technical colleges may establish a new fee of up to $35;

(jj) Survey course fee (FY 2009), community and technical colleges may establish a new fee of up to $25;

(kk) University center test proctor fee (FY 2009), community and technical colleges may establish a new fee of up to $25;

(ll) College level examination program (FY 2008 and FY 2009), community and technical colleges may establish a new fee of up to $25;

(mm) Course management software (FY 2009), community and technical colleges may establish a new fee of up to $1.00.

Sec. 604. 2007 c 522 s 602 (uncodified) is amended to read as follows:

(1) The appropriations in sections 603 through 609 of this act, and sections 605 through 611 of this 2008 act, provide state support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institutions assumed in this act.

2007-08 Annual Average	2008-09 Annual Average
33,782	34,197
1,760	1,980
2,109	2,349
19,112	19,272
800	865

1,888	2,113
8,952	9,322
8,996	9,184
4,165	4,213
12,022	12,175
((~~136,022~~))	((~~138,977~~))
136, 102	139, 237

(2) For the state universities, the number of full-time equivalent student enrollments enumerated in this section for the Bothell, Tacoma, Tri-Cities, and Vancouver campuses are the minimum levels at which the universities should seek to enroll students for those campuses. At the start of an academic year, the governing board of a state university may transfer full-time equivalent student enrollments among campuses. Intent notice shall be provided to the office of financial management and reassignment of funded enrollment is contingent upon satisfying data needed by the forecast division for tracking and monitoring state-supported college enrollment.

***Sec. 605.** 2007 c 522 s 603 (uncodified) is amended to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$638,521,000~~)) $617,805,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$654,446,000~~)) $665,052,000

Education Legacy Trust Account—State Appropriation. $105,432,000

Pension Funding Stabilization Account Appropriation. $49,800,000

Administrative Contingencies Account—State Appropriation. $2,950,000

TOTAL APPROPRIATION . . . . . ((~~$1,448,199,000~~)) $1,441,039,000

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

(1) $5,040,000 of the education legacy trust account—state appropriation and $10,920,000 of the general fund—state appropriation for fiscal year 2009 are to expand general enrollments by 900 student FTEs in academic year 2008 and by an additional 1,050 student FTEs in academic year 2009.

(2) $5,720,000 of the education legacy trust account—state appropriation and $11,440,000 of the general fund—state appropriation for fiscal year 2009 are to expand high-demand enrollments by 650 student FTEs in fiscal year 2008 and by an additional 650 student FTEs in fiscal year 2009. The programs expanded shall include, but are not limited to, mathematics and health sciences. The state board shall provide data to the office of financial management that is required to track changes in enrollments, graduations, and the employment of

college graduates related to state investments in high-demand enrollment programs. Data may be provided through the public centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(3) $1,960,000 of the education legacy trust account—state appropriation is to expand early childhood education programs with a focus on early math and science awareness by 100 student FTEs in fiscal year 2008 and by an additional 150 student FTEs in 2009. The board shall provide data to the office of financial management regarding math and science enrollments, graduations, and employment of college graduates related to state investments in math and science programs. Data may be provided through the centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(4) $28,761,000 of the general fund—state appropriation for fiscal year 2008 and $28,761,000 of the general fund—state appropriation for fiscal year 2009 are provided solely as special funds for training and related support services, including financial aid, as specified in RCW 28C.04.390. Funding is provided to support up to 6,200 full-time equivalent students in each fiscal year.

(5) $3,813,000 of the education legacy trust account—state appropriation and $7,625,000 of the general fund—state appropriation for fiscal year 2009 are for basic skills education enrollments at community and technical colleges. Budgeted enrollment levels shall increase by 625 student FTEs each year.

(6) $3,750,000 of the general fund—state appropriation for fiscal year 2008 and $7,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to increase salaries and related benefits for part-time faculty. It is intended that part-time faculty salaries will increase relative to full-time faculty salaries after all salary increases are collectively bargained.

(7) $7,350,000 of the education legacy trust account appropriation is to increase enrollment levels in the integrated basic education, skills, and language program (I-BEST) by 250 student FTEs per year. Each student participating on a full-time basis is budgeted and shall be reported as a single FTE for purposes of this expansion.

(8) $375,000 of the general fund—state appropriation for fiscal year 2008 and $375,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the transitions math project. This phase of work shall include the establishment of a single math placement test to be used at colleges and universities statewide.

(9) $2,835,000 of the education legacy trust account appropriation is to increase enrollment in apprenticeship training programs by 150 student FTEs in each fiscal year.

(10) $4,000,000 of the education legacy trust account—state appropriation is provided solely to expand the number of TRIO eligible students served in the community and technical college system by 1,700 students each year. TRIO eligible students include low-income, first-generation, and college students with disabilities. The state board for community and technical colleges shall report annually to the office of financial management and the appropriate policy and fiscal committees of the legislature on the retention and completion rates of students served through this appropriation. Retention rates shall continue to

exceed 65 percent for TRIO students and other low-income and first-generation students served through this appropriation.

(11)(a) The higher education coordinating board, the office of financial management, and the higher education institutions negotiated a set of performance measures and targets in 2006. By July 31, 2007, the state board for community and technical colleges and the higher education coordinating board shall review and revise these targets based on per-student funding in the 2007-09 appropriations act. In addition, the board shall compile comparable data from peer institutions in the eight global challenge states identified in the Washington Learns study.

(b) The targets previously agreed by the state board and the higher education coordinating board are enumerated as follows:

(i) Increase the percentage and number of academic students who are eligible to transfer to baccalaureate institutions to 18,700;

(ii) Increase the percentage and number of students prepared for work to 23,490; and

(iii) Increase the percentage and number of basic skills students who demonstrate substantive skill gain by 22,850.

The state board for community and technical colleges shall report their progress and ongoing efforts toward meeting the provisions of this section to the higher education coordinating board prior to November 1, 2009.

(12) $452,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for start-up and planning funds for two applied baccalaureate degree programs at community and technical colleges, of which one degree program must be at a technical college. The applied baccalaureate degrees shall be specifically designed for individuals who hold associate of applied science degrees, or equivalent, in order to maximize application of their technical course credits toward the applied baccalaureate degree.

(13) $2,502,000 of the general fund—state appropriation for fiscal year 2008 and $5,024,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for faculty salary increments and associated benefits and may be used in combination with salary and benefit savings from faculty turnover to provide salary increments and associated benefits for faculty who qualify through professional development and training. To the extent general salary increase funding is used to pay faculty increments, the general salary increase shall be reduced by the same amount. The state board shall determine the method of allocating to the community and technical colleges the appropriations granted for academic employee increments, provided that the amount of the appropriation attributable to the proportionate share of the part-time faculty salary base shall only be accessible for part-time faculty.

(14) $50,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$50,000~~)) $550,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(15) $2,725,000 of the general fund—state appropriation for fiscal year 2008 and $2,725,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for administration and customized training contracts through the job skills program. The state board shall make an annual report by January 1st of each year to the governor and to appropriate policy and fiscal

committees of the legislature regarding implementation of this section, listing the scope of grant awards, the distribution of funds by educational sector and region of the state, and the results of the partnerships supported by these funds.

(16) $504,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for 80 student FTEs in the existing four applied baccalaureate degree programs at community and technical colleges as authorized in chapter 28B.50 RCW.

(17) $4,000,000 of the general fund—state appropriation for fiscal year 2008, $4,000,000 of the general fund—state appropriation for fiscal year 2009, and $15,000,000 of the education legacy trust account—state appropriation are provided solely for implementation of Second Substitute House Bill No. 1096 (postsecondary opportunities). The state board shall seek additional private sector involvement and support for the opportunity grants program. If the bill is not enacted by June 30, 2007, the education legacy trust account—state appropriation shall lapse. Remaining amounts in this subsection shall be used for an opportunity grant program to provide grants covering community and technical college tuition and fees for up to 45 credits and books or other materials to be awarded to eligible students. Program participants will earn credentials or certificates in industry-defined occupations with a need for skilled employees.

(18) From within the funds appropriated in this section, community and technical colleges shall increase salaries for employees subject to the provisions of Initiative Measure No. 732 by an average of 3.7 percent effective July 1, 2007, and by an average of ((~~2.8~~)) 3.9 percent effective July 1, 2008.

(19) $1,717,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for increasing salaries for employees who are subject to the provisions of Initiative Measure No. 732 by an average of one-half of one percent effective July 1, 2008.

(20) From within the funds appropriated in this section, community and technical colleges shall increase salaries for exempt professional staff by an average of 3.2 percent effective September 1, 2007, and by an average of 2.0 percent effective September 1, 2008.

(21) $1,500,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for competitive grants to labor, management, and college partnerships to develop or expand and evaluate innovative training programs for incumbent hospital workers that lead to careers in nursing and other high-demand health care fields. The board shall report to appropriate policy and fiscal committees of the legislature by November 1, 2008, on the initial implementation of the program, including components of the program created, the program sites, and program enrollments including student background and early progress. By November 2009, the board shall provide a follow up report that additionally includes information on student progress and outcomes.

(22) $75,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the gateway center pilot project at Highline community college for coaching and managing student participants in the pilot program. The coach will be responsible for credentials interpretation, evaluating prior learning experience, ensuring licensure guidance, providing academic advising and translation services, and helping establish employer relationships.

(23) $115,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the state board to (a) convene a one-day summit to inform the public, adult literacy instructional personnel, and local, state, and community leaders about the status of adult literacy and adult literacy education; and (b) conduct a media campaign to increase public awareness about the availability of adult, family, and workforce literacy services and resources.

(24) $750,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to support online library resources throughout the community and technical college system. Funds shall be used to purchase licenses for specialized periodicals, journals, and books and to increase student access to library materials.

(25) $3,000,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the design, development, training, and related expenses associated with a joint labor/management apprenticeship program established under the auspices of an international union representing aerospace workers, which will include but not be limited to training in composite technology. Of this amount, $2,150,000 may be used for program development, curriculum development and equipment, training, and related expenses; and $850,000 shall be used to support 130 enrollment slots at no more than three community and technical colleges with at least one college being located east of the Cascade mountains, for related supplemental instruction and related expenses. The state board for community and technical colleges shall select the colleges using a joint selection process between the state board and the joint labor/management apprenticeship program.

(26) $1,178,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to Edmonds community college for operating expenses related to leasing the employment resource center.

(27) $50,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Renton technical college to implement workplace-based instructional programs that will enable low-wage working immigrants to improve their English language and work-related skills.

(28) $500,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to convert classes taught by faculty employed in part-time positions to classes taught by faculty employed in full-time, tenure-track positions. Particular emphasis shall be placed upon increasing the number of full-time faculty in the departments of mathematics, science, adult basic education, early childhood education, and English. The state board shall determine the distribution of these funds among the colleges in consultation with representatives of faculty unions.

(29) The appropriations in this section include specific funding to implement Substitute Senate Bill No. 5104 (applied baccalaureate degrees).

***Sec. 605 was partially vetoed. See message at end of chapter.**

***Sec. 606.** 2007 c 522 s 604 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

General Fund—State Appropriation (FY 2008) . . . . . ((~~$373,680,000~~)) $373,726,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$390,058,000~~)) $375,998,000

General Fund—Private/Local Appropriation $300,000
Education Legacy Trust Account—State
Appropriation. $43,181,000
Accident Account—State Appropriation . . . . . ((~~$6,621,000~~))
$6,513,000
Medical Aid Account—State Appropriation . . . . . ((~~$6,448,000~~))
$6,371,000
TOTAL APPROPRIATION . . . . . ((~~$820,288,000~~))
$806,089,000

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

(1) $15,744,000 of the education legacy trust account—state appropriation is to expand general enrollments by 625 student FTEs in fiscal year 2008 and by an additional 625 student FTEs in fiscal year 2009. Of these, 165 FTEs in 2008 and 165 FTEs in 2009 are expected to be graduate student FTEs.

(2) $6,975,000 of the education legacy trust account—state appropriation is to expand math and science undergraduate enrollments by 250 student FTEs in each fiscal year. The programs expanded shall include mathematics, engineering, and the physical sciences. The university shall provide data to the office of financial management that is required to track changes in enrollments, graduations, and the employment of college graduates related to state investments in math and science programs. Data may be provided through the public centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(3) $85,000 of the general fund—state appropriation for fiscal year 2008 and $85,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for operating support of the Washington state academy of sciences, authorized by chapter 70.220 RCW.

(4) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for operating support of the William D. Ruckelshaus center.

(5) $500,000 of the education legacy trust account—state appropriation is provided solely to expand the number of TRIO eligible students served in the student support services program at the University of Washington by 250 students each year. TRIO students include low-income, first-generation, and college students with disabilities. The student support services program shall report annually to the office of financial management and the appropriate policy and fiscal committees of the legislature on the retention and completion rates of students served through this appropriation. Retention rates shall continue to exceed 85 percent for TRIO students in this program.

(6) $84,000 of the general fund—state appropriation for fiscal year 2008 and $84,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to establish the state climatologist position.

(7) $25,000 of the general fund—state appropriation for fiscal year 2008 ((~~is~~)) and $125,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the William D. Ruckelshaus center to identify and carry out, or otherwise appropriately support, a process to identify issues that have led to conflict around land use requirements and property rights, and explore

practical and effective ways to resolve or reduce that conflict. A report with conclusions and recommendations shall be submitted to the governor and the chairs of the appropriate committees of the legislature by October 31, 2007. Work will continue after the submission of the initial report, to include continuing research and the development of financial and policy options and a progress report on fact finding efforts and stakeholder positions due December 1, 2008.

(8) $3,830,000 of the education legacy trust account—state appropriation is provided solely to expand health sciences capacity at the University of Washington. Consistent with the medical and dental school extension program appropriations at Washington State University and Eastern Washington University, funding is provided to expand classes at the University of Washington. Medical and dental students shall take the first year of courses for this program at the Riverpoint campus in Spokane and the second year of courses at the University of Washington in Seattle.

(9) The higher education coordinating board, the office of financial management, and the higher education institutions negotiated a set of performance measures, checkpoints, and targets in 2006. By July 31, 2007, the university and the board shall review and revise these targets based on per-student funding in the 2007-09 appropriations act. In addition, the board shall compile comparable data from peer institutions in the eight global challenge states identified in the Washington Learns study.

The checkpoints previously agreed by the board and the University of Washington are enumerated as follows:

(a) Increase the combined number of baccalaureate degrees conferred per year at all campuses to 8,850;

(b) Increase the combined number of high-demand baccalaureate degrees conferred at all campuses per year to 1,380;

(c) Increase the combined number of advanced degrees conferred per year at all campuses to 3,610;

(d) Improve the six-year graduation rate for baccalaureate students to 74.7 percent;

(e) Improve the three-year graduation rate for students who transfer with an associates degree to 76.0 percent;

(f) Improve the freshman retention rate to 93.0 percent;

(g) Improve time to degree for baccalaureate students to 92 percent at the Seattle campus and 92.5 percent at the Bothell and Tacoma campuses, measured by the percent of admitted students who graduate within 125 percent of the credits required for a degree; and

(h) The institution shall provide a report on Pell grant recipients' performance within each of the measures included in this subsection.

The University of Washington shall report its progress and ongoing efforts toward meeting the provisions of this section to the higher education coordinating board prior to November 1, 2009.

(10) $750,000 of the education legacy trust account appropriation is provided solely to increase participation in international learning opportunities, particularly for students with lower incomes who would otherwise not have the chance to study, work, or volunteer outside the United States.

(11) $75,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for forestry research by the Olympic natural resources center.

(12) $25,000 of the general fund—state appropriation for fiscal year 2008 and $25,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for coastal marine research by the Olympic natural resources center.

(13) $95,000 of the general fund—state appropriation for fiscal year 2008 and $30,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for increased education, training, and support services for the families of children with autism, and for the production and distribution of digital video discs in both English and Spanish about strategies for working with people with autism.

(14) $2,900,000 of the general fund—state appropriation for fiscal year 2008 and $3,400,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for operating support for the department of global health.

(15) In an effort to introduce students to and inform students of post-secondary opportunities in Washington state, by October 1st of each year the university shall report to the higher education coordinating board progress towards developing and implementing outreach programs designed to increase awareness of higher education to K-12 populations.

(16) $150,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the rural technology initiative (initiative) at the University of Washington and the transportation research group (group) at the Washington State University to conduct an economic analysis of the costs to safely provide log hauling services. The initiative will be the lead investigator and administer the project. Neither the University of Washington nor the Washington State University may make a deduction for administrative costs. The project shall rely upon the Washington state patrol for determination of basic safe characteristics, consistent with applicable state and federal law. The analysis shall include:

(a) An estimate of log haulers' cost to operate and maintain a basic and safe log truck without operator including:

(i) Variable costs such as fuel, etc;

(ii) Quasi-variable costs such as:

(A) Tires, brakes, wrappers, and other safety related equipment;

(B) Vehicle insurance, taxes, fees, etc;

(C) Maintenance costs such as oil, lubrication, and minor repairs; and

(D) Depreciation and replacement costs;

(b) The source of these cost estimates where possible should be independent vendors of equipment and services or already existing studies;

(c) A calculation of costs for safe operation expressed as per mile, hour or load volume including consideration for regional differences as well as off-road vs. on-road;

(d) An evaluation of comparable trucking services; and

(e) A review of log truck safety statistics in Washington state.

In conducting the analysis, the initiative shall consult with the northwest log truckers cooperative, the Washington trucking association, the Washington contract loggers association, the Washington farm forestry association, and the

Washington forest protection association. By June 30, 2008, the initiative shall provide a report of its findings to the legislature and governor and distribute the findings to interested industry groups.

(17) $500,000 of the general fund—state appropriation for fiscal year 2008 and $500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the Burke museum to support science and social science educational programs including public outreach programs, new educational programs and resources, web-based interactive learning experiences, teacher training, and traveling educational opportunities.

(18) $150,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$150,000~~)) $300,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to the institute for learning and brain sciences.

(19) $30,000 of the general fund—state appropriation for fiscal year 2008 and $30,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the University of Washington to gather data and conduct research associated with preparing the basin-wide assessment and to solicit nominations for review and submittal to the Washington academy of sciences for the creation of the Puget Sound science panel pursuant to Engrossed Second Substitute Senate Bill No. 5372 (Puget Sound partnership).

(20)(a) $500,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the University of Washington school of law loan repayment assistance program endowment fund. The University of Washington shall conduct fund-raising activities to increase private sector support of the endowment program and $250,000 of the appropriation in this subsection is contingent on a private sector match. Funds in the law school repayment assistance program endowment fund shall be used to provide graduates who pursue careers in public interest legal positions with payment assistance toward their student loan debt.

(b) The University of Washington law school shall report to the legislature by December 1, 2010, information about the loan repayment assistance program. The report shall contain at least the following information:

(i) A financial summary of the endowment program;

(ii) The number of individuals receiving assistance from the program and information related to the positions in which these individuals are working;

(iii) Any available information regarding the effect of the loan repayment assistance program on student recruitment and enrollment; and

(iv) Other information the school of law deems relevant to the evaluation of the program.

(c) In its rules for administering the program, the school of law must make provision for cases of hardship or exceptional circumstances, as defined by the school of law. Examples of such circumstances include, but are not limited to, family leave, medical leave, illness or disability, and loss of employment.

(d) The loan repayment assistance program must be available to otherwise eligible graduates of the law school who work in positions with nonprofit organizations or government agencies. Such positions must be located within Washington state. Government agencies shall include the various branches of the military.

(21) $54,000 of the general fund—state appropriation for fiscal year 2008 and $54,000 of the general fund—state appropriation for fiscal year 2009 are

provided solely for the University of Washington geriatric education center to develop a voluntary adult family home certification program. In addition to the minimum qualifications required under RCW 70.128.120, individuals participating in the voluntary adult family home certification program shall complete fifty-two hours of class requirements as established by the University of Washington geriatric education center. Individuals completing the requirements of RCW 70.128.120 and the voluntary adult family home certification program shall be issued a certified adult family home license by the department of social and health services. The department of social and health services shall adopt rules implementing the provisions of this subsection.

(22) $22,000 of the general fund—state appropriation for fiscal year 2008 and $97,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the William D. Ruckelshaus center for implementation of section 5 of Engrossed Second Substitute House Bill No. 3123 (nurse staffing). If section 5 of the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(23) $88,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the university to increase mental health professional staff by one full-time equivalent employee.

(24) $200,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the marine sciences program to continue studying the impacts to biota in Hood Canal from low dissolved oxygen.

(25) $1,000,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to establish an e-Science institute that will provide infrastructure and consulting expertise to university researchers in advanced computational techniques needed to capture, store, organize, access, mine, visualize, and interpret massive data sets.

(26) $135,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to enable five undergraduate or graduate students to work as fellows in overseas international trade offices.

(27) $65,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to expand the work of the office of the state climatologist in areas such as preparing, publishing, and disseminating climate summaries for individuals and organizations whose activities are related to the welfare of the state; supplying information needed to implement the state's drought contingency response plan; conducting and reporting on studies of climate and weather phenomena of significant socioeconomic impact to the state; and evaluating the impact of natural and man-made changes on the climate.

(28) $50,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for incentive grants to support medical research or medical training projects focused upon improvement of services to persons with developmental disabilities. The university shall report to appropriate committees of the legislature by December 1, 2008, on incentive grants awarded, and other efforts to improve training for medical students in treating persons with developmental disabilities.

***Sec. 606 was partially vetoed. See message at end of chapter.**

***Sec. 607.** 2007 c 522 s 605 (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

General Fund—State Appropriation (FY 2008) . . . . . .((~~$231,382,000~~))

$232,201,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$240,898,000~~))
$235,108,000
Education Legacy Trust Account—State
Appropriation. $33,884,000
Pension Funding Stabilization Account
Appropriation. $2,450,000
TOTAL APPROPRIATION . . . . . ((~~$508,614,000~~))
$503,643,000

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

(1) $5,315,000 of the education legacy trust account—state appropriation is to expand general enrollments by 290 student FTEs in fiscal year 2008 and by an additional 300 student FTEs in fiscal year 2009.

(2) $3,525,000 of the education legacy trust account—state appropriation is to expand math and science enrollments by 65 student FTEs in fiscal year 2008, and by an additional 90 FTE students in fiscal year 2009, of which 15 FTEs in each fiscal year are expected to be graduate enrollments. The programs expanded shall include mathematics, engineering, and the physical sciences. Fifty student FTEs in each year will be shifted from general enrollments to high-demand, high-cost fields, and thus do not affect the enrollment levels listed in section 602 of this act. The university shall provide data to the office of financial management regarding math and science enrollments, graduations, and the employment of college graduates related to state investments in math and science programs. Data may be provided through the public centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(3) $2,356,000 of the education legacy trust account appropriation is to expand bachelors-level, masters-level, and PhD enrollment at the Tri-Cities and Spokane campuses by 45 FTE students in fiscal year 2008, and by an additional 40 FTEs in fiscal year 2009.

(4) $2,000,000 of the general fund—state appropriation for fiscal year 2008 and $2,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for research and commercialization in bio-products and bio-fuels. Of this amount, $2,000,000 shall be targeted at the development of new crops to be used in the bio-products facility at WSU-Tri-Cities. The remainder shall be used for research into new bio-products created from agricultural waste to be conducted in the Tri-Cities in a joint program between Washington State University and Pacific Northwest national laboratories.

(5) $500,000 of the education legacy trust account—state appropriation is provided solely to expand the number of TRIO eligible students served in the student support services program at Washington State University by 250 students each year. TRIO students include low-income, first-generation, and college students with disabilities. The student support services program shall report annually to the office of financial management and the appropriate policy and fiscal committees of the legislature on the retention and completion rates of students served through this appropriation. Retention rates shall continue to exceed 85 percent for TRIO students in this program.

(6) $1,500,000 of the general fund—state appropriation for fiscal year 2008 and $1,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to promote the development of the Spokane-based applied sciences laboratory into a strong, self-sustaining research organization. The state funds shall be used to recruit and retain at least three senior research scientists; to employ business development and administrative personnel; and to establish and equip facilities for computational modeling and for materials and optical characterization.

(7) $85,000 of the general fund—state appropriation for fiscal year 2008 and $85,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for operating support of the Washington state academy of sciences, under chapter 70.220 RCW.

(8) $100,000 of the general fund—state appropriation for fiscal year 2008 and $100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for operating support of the William D. Ruckelshaus center.

(9) $25,000 of the general fund—state appropriation for fiscal year 2008 ((~~is~~)) and $175,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the William D. Ruckelshaus center to identify and carry out, or otherwise appropriately support, a process to identify issues that have led to conflict around land use requirements and property rights, and explore practical and effective ways to resolve or reduce that conflict. A report with conclusions and recommendations shall be submitted to the governor and the chairs of the appropriate committees of the legislature by October 31, 2007. Work will continue after the submission of the initial report, to include continuing research and the development of financial and policy options and a progress report on fact finding efforts and stakeholder positions due December 1, 2008.

(10) $6,360,000 of the education legacy trust account—state appropriation is provided solely to expand health sciences offerings in Spokane. The university shall enroll 20 student FTEs in fiscal year 2009 in a University of Washington medical school extension program at the Riverpoint campus of WSU in Spokane. Students shall take the first year of courses for this program at the Riverpoint campus in Spokane, and shall do their clinical rotations and other upper level training in the inland northwest.

(11) $1,000,000 of the general fund—state appropriation for fiscal year 2008 and $1,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for start-up and ongoing operation of the Vancouver campus-based electrical engineering program.

(12) The higher education coordinating board, the office of financial management, and the higher education institutions negotiated a set of performance measures, checkpoints, and targets in 2006. By July 31, 2007, the university and the board shall review and revise these targets based on per-student funding in the 2007-09 appropriations act. In addition, the board shall compile comparable data from peer institutions in the eight global challenge states identified in the Washington Learns study.

The checkpoints previously agreed by the board and the Washington State University are enumerated as follows:

(a) Increase the combined number of baccalaureate degrees conferred per year at all campuses to 4,170;

(b) Increase the combined number of high-demand baccalaureate degrees conferred at all campuses per year to 630;

(c) Increase the combined number of advanced degrees conferred per year at all campuses to 1,090;

(d) Improve the six-year graduation rate for baccalaureate students to 63.2 percent;

(e) Improve the three-year graduation rate for students who transfer with an associates degree to 65.4 percent;

(f) Improve the freshman retention rate to 84.8 percent;

(g) Improve time to degree for baccalaureate students to 92 percent, measured by the percent of admitted students who graduate within 125 percent of the credits required for a degree; and

(h) The institution shall provide a report on Pell grant recipients' performance within each of the measures included in this section.

The Washington State University shall report its progress and ongoing efforts toward meeting the provisions of this section to the higher education coordinating board prior to November 1, 2009.

(13) In an effort to introduce students to and inform students of post-secondary opportunities in Washington state, by October 1st of each year the university shall report to the higher education coordinating board progress towards developing and implementing outreach programs designed to increase awareness of higher education to K-12 populations.

(14) $3,000,000 of the general fund—state appropriation for fiscal year 2008 and $3,000,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support the unified agriculture initiative at Washington State University. Funds are provided for competitive agriculture grant funds, of which $400,000 is provided for biological intensive and organic agriculture grants; for operating and program support for the university's research and extension centers, of which $735,000 is for maintenance and operations support for the Mount Vernon research facility; and for positions to fill research gaps in the development of value-added agricultural products and economically and environmentally sustainable food production.

(15) $75,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for support of basic operations and research at the university's grizzly bear study center.

(16) $75,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the energy development center to establish certification standards and to process applications for renewable energy cost recovery incentives, as provided in chapters 300 and 301, Laws of 2005.

(17) $30,000 of the general fund—state appropriation for fiscal year 2008 and $30,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for Washington State University to gather data and conduct research associated with preparing the basin-wide assessment and to solicit nominations for review and submittal to the Washington academy of sciences for the creation of the Puget Sound science panel pursuant to Engrossed Second Substitute Senate Bill No. 5372 (Puget Sound partnership).

(18) $10,000 of the general fund—state appropriation for fiscal year 2008 and $40,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the William D. Ruckelshaus center for implementation of section 5 of Engrossed Second Substitute House Bill No. 3123 (nurse staffing). If section 5 of the bill is not enacted by June 30, 2008, the amounts provided in this subsection shall lapse.

(19) $77,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the university to increase mental health professional staff by one full-time equivalent employee.

(20) $160,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for administrative resources and personnel necessary for the implementation of Substitute House Bill No. 2963 (WSU collective bargaining). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(21) $200,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement a teacher preparation program at Washington State University-Vancouver that will prepare currently-licensed teachers to more effectively educate K-12 students who are deaf or hearing-impaired. The program will use a variety of distance learning instructional methods and delivery formats in order to reach teachers throughout the state.

(22) $50,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to expand services at the Renton small business development center.

(23) $145,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington State University urban integrated pest management program to provide technical assistance to school districts implementing integrated pesticide management programs. The program shall also assist the Washington state school directors' association in developing a statewide model policy for integrated pest management.

(24) $500,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of section 6 of Senate Bill No. 6438 (high speed internet deployment). If section 6 of Senate Bill No. 6438 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(25) The appropriations in this section include specific funding to implement Senate Bill No. 6187 (food animal veterinarians).

***Sec. 607 was partially vetoed. See message at end of chapter.**

***Sec. 608.** 2007 c 522 s 606 (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2008) . . . . . ((~~$48,907,000~~))
$48,911,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$50,736,000~~))
$48,959,000

Education Legacy Trust Account—State
Appropriation. $14,753,000

Pension Funding Stabilization Account
Appropriation. $4,758,000

TOTAL APPROPRIATION . . . . . ((~~$119,154,000~~))
$117,381,000

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

(1) $930,000 of the education legacy trust account—state appropriation is to expand general enrollments by 130 student FTEs in fiscal year 2009. Of these, 30 FTEs in 2009 are expected to be graduate student FTEs.

(2) $1,170,000 of the education legacy trust account—state appropriation is to expand high-demand undergraduate enrollments by 50 student FTEs in each fiscal year. The programs expanded shall include, but are not limited to, mathematics, engineering, and health sciences. The university shall provide data to the office of financial management that is required to track changes in enrollments, graduations, and the employment of college graduates related to state investments in high-demand enrollment programs. Data may be provided through the public centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(3) $500,000 of the education legacy trust account—state appropriation is provided solely to expand the number of TRIO eligible students served in the student support services program at Eastern Washington University by 250 students each year. TRIO students include low-income, first-generation, and college students with disabilities. The student support services program shall report annually to the office of financial management and the appropriate policy and fiscal committees of the legislature on the retention and completion rates of students served through this appropriation. Retention rates shall continue to exceed 85 percent for TRIO students in this program.

(4) $1,021,000 of the education legacy trust account—state appropriation is provided solely for the RIDE program. The program shall enroll eight student FTEs in the University of Washington school of dentistry in fiscal year 2009. Students shall take the first year of courses for this program at the Riverpoint campus in Spokane, and their second and third years at the University of Washington school of dentistry.

(5) The higher education coordinating board, the office of financial management, and the higher education institutions negotiated a set of performance measures, checkpoints, and targets in 2006. By July 31, 2007, the university and the board shall review and revise these targets based on per-student funding in the 2007-09 appropriations act. In addition, the board shall compile comparable data from peer institutions in the eight global challenge states identified in the Washington Learns study.

The checkpoints previously agreed by the board and the Eastern Washington University are enumerated as follows:

(a) Increase the number of baccalaureate degrees conferred per year to 2035;

(b) Increase the number of high-demand baccalaureate degrees conferred per year to 405;

(c) Increase the number of advanced degrees conferred per year at all campuses to 550;

(d) Improve the six-year graduation rate for baccalaureate students to 50.0 percent;

(e) Improve the three-year graduation rate for students who transfer with an associates degree to 61.0 percent;

(f) Improve the freshman retention rate to 76.0 percent;

(g) Improve time to degree for baccalaureate students to 81.0 percent, measured by the percent of admitted students who graduate within 125 percent of the credits required for a degree; and

(h) The institution shall provide a report on Pell grant recipients' performance within each of the measures included in this section.

Eastern Washington University shall report its progress and ongoing efforts toward meeting the provisions of this section to the higher education coordinating board prior to November 1, 2009.

(6) In an effort to introduce students to and inform students of post-secondary opportunities in Washington state, by October 1st of each year the university shall report to the higher education coordinating board progress towards developing and implementing outreach programs designed to increase awareness of higher education to K-12 populations.

(7) $80,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the university to increase mental health professional staff by one full-time equivalent employee.

(8) $62,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the institute for public policy and economic analysis to conduct an assessment of the likely medical, health care delivery, and economic consequences of the proposed sale of a major eastern Washington health care delivery system.

(9) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the northwest autism center to increase child diagnostic services and teacher training services.

***Sec. 608 was partially vetoed. See message at end of chapter.**

***Sec. 609.** 2007 c 522 s 607 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2008) . . . . . ((~~$47,326,000~~))
$47,691,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$49,539,000~~))
$47,978,000

Education Legacy Trust Account—State
Appropriation. $16,219,000

Pension Funding Stabilization Account
Appropriation. $4,330,000

TOTAL APPROPRIATION . . . . . ((~~$117,414,000~~))
$116,218,000

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

(1) $2,474,000 of the education legacy trust account—state appropriation is to increase general enrollments by 70 FTE students in fiscal year 2008 and by an additional 211 FTE enrollments in fiscal year 2009. At least 30 of the additional fiscal year 2009 enrollments are expected to be graduate students.

(2) $1,816,000 of the education legacy trust account—state appropriation for fiscal year 2008 is to increase math and science enrollments by 105 FTE students in fiscal year 2008 and by an additional 89 FTE students in fiscal year 2009. The university shall provide data to the office of financial management

regarding math and science enrollments, graduations, and employment of college graduates related to state investments in math and science enrollment programs. Data may be provided through the centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(3) $1,801,000 of the education legacy trust account—state appropriation is to increase high-demand undergraduate enrollments by 85 student FTEs in fiscal year 2008 and by an additional 70 FTE students in fiscal year 2009. The programs expanded shall include, but are not limited to, bilingual education and information technology. The university shall provide data to the office of financial management that is required to track changes in enrollments, graduations, and the employment of college graduates related to state investments in high-demand enrollment programs. Data may be provided through the public centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(4) $500,000 of the education legacy trust account—state appropriation is provided solely to expand the number of TRIO eligible students served in the student support services program at Central Washington University by 250 students each year. TRIO students include low-income, first-generation, and college students with disabilities. The student support services program shall report annually to the office of financial management and the appropriate policy and fiscal committees of the legislature on the retention and completion rates of students served through this appropriation. Retention rates shall continue to exceed 85 percent for TRIO students in this program.

(5) The higher education coordinating board, the office of financial management, and the higher education institutions negotiated a set of performance measures, checkpoints, and targets in 2006. By July 31, 2007, the university and the board shall review and revise these targets based on per-student funding in the 2007-09 appropriations act. In addition, the board shall compile comparable data from peer institutions in the eight global challenge states identified in the Washington Learns study.

The checkpoints previously agreed by the board and the Central Washington University are enumerated as follows:

(a) Increase the number of baccalaureate degrees conferred per year to 2,050;

(b) Increase the number of high-demand baccalaureate degrees conferred per year to 49;

(c) Increase the number of advanced degrees conferred per year at all campuses to 196;

(d) Improve the six-year graduation rate for baccalaureate students to 51.1 percent;

(e) Improve the three-year graduation rate for students who transfer with an associates degree to 72.3 percent;

(f) Improve the freshman retention rate to 78.2 percent;

(g) Improve time to degree for baccalaureate students to 86.6 percent, measured by the percent of admitted students who graduate within 125 percent of the credits required for a degree; and

(h) The institution shall provide a report on Pell grant recipients' performance within each of the measures included in this section.

Central Washington University shall report its progress and ongoing efforts toward meeting the provisions of this section to the higher education coordinating board prior to November 1, 2009.

(6) $500,000 of the education legacy trust account appropriation is provided solely to implement Engrossed Substitute House Bill No. 1497 (Central Washington University operating fee waivers). If the bill is not enacted by June 30, 2007, this appropriation shall lapse.

(7) In an effort to introduce students to and inform students of post-secondary opportunities in Washington state, by October 1st of each year the university shall report to the higher education coordinating board progress towards developing and implementing outreach programs designed to increase awareness of higher education to K-12 populations.

(8) $80,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the university to increase mental health professional staff by one full-time equivalent employee.

***Sec. 609 was partially vetoed. See message at end of chapter.**

***Sec. 610.** 2007 c 522 s 608 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$29,744,000~~)) $29,747,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$30,057,000~~)) $29,403,000

Education Legacy Trust Account—State Appropriation. $4,758,000

TOTAL APPROPRIATION . . . . . ((~~$64,559,000~~)) $63,908,000

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

(1) $562,000 of the education legacy trust account—state appropriation is to expand upper division math and science enrollments by 22 student FTEs in fiscal year 2008 and by an additional 28 student FTEs in fiscal year 2009.

(2) $260,000 of the education legacy trust account—state appropriation for fiscal year 2009 is for 20 student FTE graduate enrollments in the masters in education program.

(3) $500,000 of the education legacy trust account—state appropriation is provided solely to expand the number of TRIO eligible students served in the student support services program at The Evergreen State College by 250 students each year. TRIO students include low-income, first-generation, and college students with disabilities. The student support services program shall report annually to the office of financial management and the appropriate policy and fiscal committees of the legislature on the retention and completion rates of students served through this appropriation. Retention rates shall continue to exceed 80 percent for students served in this program, with a goal of reaching a retention rate in excess of 85 percent.

(4) $614,000 of the education legacy trust account appropriation is provided solely to increase the number and value of tuition waivers awarded to state-supported students.

(5) The higher education coordinating board, the office of financial management, and the higher education institutions negotiated a set of performance measures, checkpoints, and targets in 2006. By July 31, 2007, the college and the board shall review and revise these targets based on per-student funding in the 2007-09 appropriations act. In addition, the board shall compile comparable data from peer institutions in the eight global challenge states identified in the Washington Learns study.

The checkpoints previously agreed by the board and The Evergreen State College are enumerated as follows:

(a) Increase the number of baccalaureate degrees conferred per year to 1182;

(b) Increase the number of advanced degrees conferred per year at all campuses to 92;

(c) Improve the six-year graduation rate for baccalaureate students to 57.0 percent;

(d) Improve the three-year graduation rate for students who transfer with an associates degree to 72.8 percent;

(e) Improve the freshman retention rate to 73.9 percent;

(f) Improve time to degree for baccalaureate students to 97.0 percent, measured by the percent of admitted students who graduate within 125 percent of the credits required for a degree; and

(g) The institution shall provide a report on Pell grant recipients' performance within each of the measures included in this section.

The Evergreen State College shall report its progress and ongoing efforts toward meeting the provisions of this section to the higher education coordinating board prior to November 1, 2009.

(6) In an effort to introduce students to and inform students of post-secondary opportunities in Washington state, by October 1st of each year the university shall report to the higher education coordinating board progress towards developing and implementing outreach programs designed to increase awareness of higher education to K-12 populations.

(7) $435,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the Washington state institute for public policy (WSIPP) to assist the joint task force on basic education finance created pursuant to Engrossed Second Substitute Senate Bill No. 5627 (requiring a review and development of basic education funding). The institute shall assist the joint task force in a review of the definition of basic education and the development of options for a new funding structure for K-12 public schools. ((~~If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.~~)) The task force on basic education as created in chapter 399, Laws of 2007 shall consider the ruling of the King County Superior Court in the matter of *Federal Way School District v. The State of Washington* in developing recommendations for a new basic education school finance formula. The recommendations should include proposals that directly address the issue of equity in salary allocations in the new school finance formula.

(8) $180,000 of the general fund—state appropriation for fiscal year 2008 and $180,000 of the general fund—state appropriation for fiscal year 2009 are

provided solely for the Washington state institute for public policy to study the program effectiveness and cost-benefit of state-funded programs that meet the criteria of evidence-based programs and practices, and emerging best practice/ promising practice, as defined in RCW 71.24.025 (12) and (13) for adult offenders in the department of corrections, and juvenile offenders under state and local juvenile authority.

(9) $75,000 of the general fund—state appropriation for fiscal year 2008 and $75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Washington state institute for public policy to evaluate the effectiveness of current methods for screening and treating depression in women who receive temporary assistance for needy families (TANF), and to make recommendations for their improvement.

(10) $133,000 of the general fund—state appropriation for fiscal year 2008 is provided solely to implement Substitute House Bill No. 1472 (child welfare). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(11) Notwithstanding other provisions in this section, the Washington state institute for public policy may adjust due dates for projects included on the institute's 2007-09 workplan as necessary to efficiently manage workload.

(12) $19,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state institute for public policy (WSIPP) to (a) conduct a national review of state programs for youth transitioning out of foster care and analyze state policies on eligibility requirements for continued foster care, age thresholds for transition services, types of services provided, and use of state funds to supplement federal moneys; and (b) survey foster youth and foster parents in Washington regarding how well current services are meeting the needs of youth transitioning out of foster care to independence. The institute shall issue a preliminary report by September 1, 2008, with a final report by December 31, 2008.

(13) $85,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the college to increase mental health professional staff by one full-time equivalent employee.

(14) $46,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state institute for public policy (WSIPP) for implementation of Second Substitute Senate Bill No. 6732 (construction industry). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(15) $69,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state institute for public policy to study the status of adult literacy education in Washington. The study shall include an analysis of literacy rates by county; a review of the research literature; a description of literacy-related services provided by state agencies and community-based organizations; and an analysis of the characteristics of persons receiving those services. The institute shall report its findings to the governor, appropriate committees of the legislature, and to the state board for community and technical colleges by December 1, 2008.

(16) $23,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement the evaluation required by Senate Bill No. 6665

(crisis response programs). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(17) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state institute for public policy to conduct a review of research on service and support programs for children and adults with developmental disabilities, excluding special education, and an economic analysis of net program costs and benefits. The institute shall submit a preliminary report of findings by January 1, 2009, and a final report by June 30, 2009.

(18) $50,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state institute for public policy to examine data gathered through the address verification activities funded in section 217(10) of this act and through interviews with selected law enforcement jurisdictions who receive the funding to assess the prevalence of sex offenders who register as homeless as a means to avoid disclosing their residence. The institute shall report its findings and estimates to appropriate policy committees of the legislature by December 1, 2008.

(19) $70,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state institute for public policy to analyze local practices regarding RCW 28A.225.020, 28A.225.025, and 28A.225.030.

(a) The institute shall: (i) Sample school districts' and superior courts' expenditures in fiscal years 2005, 2006, 2007, and 2008 used to comply with RCW 28A.225.020, 28A.225.025, and 28A.225.030; (ii) evaluate evidence-based, research-based, promising, and consensus-based truancy intervention and prevention programs and report on local practices that could be designated as such; (iii) survey school district truancy petition and intervention programs and services currently available and report on any gaps in accessing services; (iv) survey the districts' definitions of "absence" and "unexcused absence"; (v) survey the courts' frequency of use of contempt proceedings and barriers to the use of proceedings; and (vi) analyze the academic impact of RCW 28A.225.030 by sampling school districts' student academic records to ascertain the students' post-petition attendance rate, grade progression, and high school graduation for students where the school district filed a truancy petition in superior court.

(b) In conducting its analysis, the institute may consult with employees and access data systems of the office of the superintendent of public instruction and any educational service district or school district and the administrative office of the courts, each of which shall provide the institute with access to necessary data and administrative systems.

***Sec. 610 was partially vetoed. See message at end of chapter.**

***Sec. 611.** 2007 c 522 s 609 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2008) . . . . . ((~~$66,716,000~~)) $66,774,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$69,917,000~~)) $68,085,000

Education Legacy Trust Account—State Appropriation. $11,845,000

TOTAL APPROPRIATION . . . . . ((~~$148,478,000~~)) $146,704,000

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

(1) $281,000 of the education legacy trust account—state appropriation is to expand math and science enrollments by 8 student FTEs in fiscal year 2008 and by an additional 8 student FTEs in fiscal year 2009. Programs expanded include cell and molecular biology. The university shall provide data to the office of financial management regarding math and science enrollments, graduations, and the employment of college graduates related to state investments in math and science enrollment programs. Data may be provided through the public centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(2) $4,013,000 of the education legacy trust account—state appropriation is to expand general enrollments by 235 student FTEs in fiscal year 2008 and by an additional 130 student FTEs in fiscal year 2009. Of these, 24 FTEs in each fiscal year are expected to be graduate student FTEs.

(3) $920,000 of the education legacy trust account—state appropriation is to expand high demand enrollments by 50 FTE students in fiscal year 2008 and by an additional 15 FTE students in fiscal year 2009. Programs expanded include early childhood education and teaching English as a second language. The university shall provide data to the office of financial management regarding high-demand enrollments, graduations, and employment of college graduates related to state investments in high demand enrollment programs. Data may be provided through the centralized higher education enrollment system or through an alternative means agreed to by the institutions and the office of financial management.

(4) $500,000 of the education legacy trust account—state appropriation is provided solely to expand the number of low-income and first-generation students served in the student outreach services program at Western Washington University by 500 students over the biennium. The student outreach services program shall report annually to the office of financial management and the appropriate policy and fiscal committees of the legislature on the retention and completion rates of students served through this appropriation. Retention rates shall continue to exceed 80 percent for students served in this program, with a goal of reaching a retention rate in excess of 85 percent.

(5) The higher education coordinating board, the office of financial management, and the higher education institutions negotiated a set of performance measures, checkpoints, and targets in 2006. By July 31, 2007, the university and the board shall review and revise these targets based on per-student funding in the 2007-09 appropriations act. In addition, the board shall compile comparable data from peer institutions in the eight global challenge states identified in the Washington Learns study.

The checkpoints previously agreed by the board and the Western Washington University are enumerated as follows:

(a) Increase the number of baccalaureate degrees conferred per year to 2,968;

(b) Increase the number of high-demand baccalaureate degrees conferred per year to 371;

(c) Increase the number of advanced degrees conferred per year at all campuses to 375;

(d) Improve the six-year graduation rate for baccalaureate students to 62.8 percent;

(e) Improve the three-year graduation rate for students who transfer with an associates degree to 61.4 percent;

(f) Improve the freshman retention rate to 85.0 percent;

(g) Improve time to degree for baccalaureate students to 95.6 percent, measured by the percent of admitted students who graduate within 125 percent of the credits required for a degree; and

(h) The institution shall provide a report on Pell grant recipients' performance within each of the measures included in this section.

Western Washington University shall report its progress and ongoing efforts toward meeting the provisions of this section to the higher education coordinating board prior to November 1, 2009.

(6) In an effort to introduce students to and inform students of post-secondary opportunities in Washington state, the university shall report progress towards developing and implementing outreach programs designed to increase awareness of higher education to K-12 populations to the higher education coordinating board by October 1st of each year.

(7) $1,169,000 of the education legacy trust account appropriation is for the advanced materials science and engineering program. The program shall develop the advanced materials science and engineering center for research, teaching, and development which will offer a minor degree in materials science and engineering beginning in the fall 2009.

(8) $444,000 of the general fund—state appropriation for fiscal year 2008 and $611,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for development of the biomedical research activities in neuroscience (BRAIN) program. The program shall link biology and chemistry curriculum to prepare students for biomedical research positions in academia and industry.

(9) $250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state campus compact to increase the number of college and university students mentoring students in eighth through twelfth grades.

(10) $62,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the university to increase mental health professional staff by one full-time equivalent employee.

***Sec. 611 was partially vetoed. See message at end of chapter.**

***Sec. 612.** 2007 c 522 s 610 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION

General Fund—State Appropriation (FY 2008) . . . . . ((~~$6,922,000~~)) $7,008,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$6,954,000~~)) $7,231,000

General Fund—Federal Appropriation . . . . . ((~~$4,342,000~~)) $4,333,000

TOTAL APPROPRIATION . . . . . ((~~$18,218,000~~)) $18,572,000

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

(1) $87,000 of the general fund—state appropriation for fiscal year 2008 and $169,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to maintain and update a scholarship clearinghouse that lists every public and private scholarship available to Washington students. The higher education coordinating board shall develop a web-based interface for students and families as well as a common application for these scholarships.

(2) $339,000 of the general fund—state appropriation for fiscal year 2008 and $330,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Second Substitute Senate Bill No. 5098 (the college bound scholarship). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(3) $200,000 of the general fund—state appropriation for fiscal year 2008 and $150,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Engrossed Substitute House Bill No. 1131 (the passport to college promise). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(4) $152,000 of the general fund—state appropriation for fiscal year 2008 and $191,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for administration of conditional scholarships.

(5) Except for moneys provided in this section for specific purposes, and to the extent that the executive director finds that the agency will not require the full amount appropriated for a fiscal year in this section, the unexpended appropriation shall be transferred to the state education trust account established under RCW 28B.92.140 for purposes of fulfilling unfunded scholarship commitments that the board made under its federal GEAR UP Grant 1.

(6) $200,000 of the general fund—state appropriation is provided solely to implement a capital facility and technology capacity study which will compare the 10-year enrollment projections with the capital facility requirements and technology application and hardware capacity needed to deliver higher education programs for the period 2009-2019. The ((~~joint legislative audit and review committee~~)) higher education coordinating board shall:

(a) Develop the study in collaboration with the state board for community and technical colleges, ((~~the higher education coordinating board,~~)) four-year universities, and the Washington independent colleges;

(b) Determine the 10-year capital facilities and technology application and hardware investment needed by location to deliver higher education programs to additional student FTE;

(c) Estimate operational and capital costs of the additional capacity; and

(d) Report findings to the legislature on October 1, 2008.

(7) $85,000 of the general fund—state appropriation for fiscal year 2008 and $127,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the board to prepare a program and operating plan for a higher education center in the Kitsap county area. The plan shall be developed in consultation with an advisory committee of civic, business, and educational leaders from Clallam, Jefferson, Kitsap, and Mason counties. It shall include a projection of lower and upper division and graduate enrollment trends in the study area; a review of assessments of employer needs; an inventory of existing

and needed postsecondary programs; recommended strategies for promoting active program participation in and extensive program offerings at the center by public and private baccalaureate institutions; and an estimate of operating and capital costs for the creation and operation of the center. The board shall submit its findings and recommendations to the governor and legislature by December 1, 2008.

(8) $30,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Second Substitute House Bill No. 2783 (education transfer articulation). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(9) $14,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the higher education coordinating board to convene a work group to: (a) Assess current institutional practices in accepting prior learning credits; and (b) make recommendations on implementation of the work group's findings. A report is due to the legislature by December 1, 2008.

(10) $60,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed House Bill No. 2641 (education performance agreements). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(11) The higher education coordinating board, the department of licensing, and the department of health shall jointly review and report to appropriate policy committees of the legislature by December 1, 2008, on barriers and opportunities for increasing the extent to which veterans separating from duty are able to apply skills sets and education required while in service to certification, licensure, and degree requirements.

(12) $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the higher education coordinating board to convene interested parties from Snohomish, Island, and Skagit counties to consider the November 2007 site options and recommendations for a new campus of the University of Washington in Snohomish county. The three local communities shall develop a consensus recommendation on a single preferred site and present the recommendation to the higher education coordinating board. The higher education coordinating board shall then present the single preferred site recommendation to the appropriate legislative fiscal and policy committees by December 1, 2008.

***Sec. 612 was partially vetoed. See message at end of chapter.**

***Sec. 613.** 2007 c 522 s 611 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD—FINANCIAL AID AND GRANT PROGRAMS

General Fund—State Appropriation (FY 2008) $163,286,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$187,252,000~~))
$188,998,000
General Fund—Federal Appropriation . . . . . ((~~$13,122,000~~))
$13,113,000
Education Legacy Trust Account—State
Appropriation $108,188,000
TOTAL APPROPRIATION . . . . . ((~~$471,848,000~~))
$473,585,000

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

(1) ((~~$154,837,000~~)) $154,760,000 of the general fund—state appropriation for fiscal year 2008, ((~~$177,863,000~~)) $178,707,000 of the general fund—state appropriation for fiscal year 2009, $49,902,000 of the education legacy trust account appropriation for fiscal year 2008, $40,050,000 of the education legacy trust account appropriation for fiscal year 2009, and $2,886,000 of the general fund—federal appropriation are provided solely for student financial aid payments under the state need grant; the state work study program including a four percent administrative allowance; the Washington scholars program; and the Washington award for vocational excellence. All four programs shall increase grant awards sufficiently to offset the full cost of the resident undergraduate tuition increases authorized under this act.

(2) Within the funds appropriated in this section, eligibility for the state need grant shall be expanded to include students with family incomes at or below 70 percent of the state median family income, adjusted for family size. Awards for students with incomes between 66 percent and 70 percent of the state median shall be 50 percent of the award amount granted to those with incomes below 51 percent of the median.

(3) To the extent that the executive director determines that the agency will not award the full amount appropriated in subsection (1) of this section for a fiscal year, unexpended funds shall be transferred to the state education trust account established under RCW 28B.92.140 for purposes first of fulfilling the unfunded scholarship commitments that the board made under its federal GEAR UP Grant 1.

(4) $7,400,000 of the education legacy trust account appropriation is provided solely for investment to fulfill the scholarship commitments that the state incurs in accordance with Second Substitute Senate Bill No. 5098 (the college bound scholarship). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(5) $2,500,000 of the education legacy trust account—state appropriation is provided solely to expand the gaining early awareness and readiness for undergraduate programs project to at least 25 additional school districts.

(6) $1,000,000 of the education legacy trust account—state appropriation is provided solely to encourage more students to teach secondary mathematics and science. $500,000 of this amount is provided to increase the future teacher scholarship and conditional loan program by at least 35 students per year. $500,000 of this amount is provided to support state work study positions for students to intern in secondary math and science classrooms.

(7) $2,336,000 of the education legacy trust account—state appropriation for fiscal year 2009 is provided solely for implementation of Engrossed Substitute House Bill No. 1131 (passport to college). Funds are provided for student scholarships, and for incentive payments to the colleges they attend for individualized student support services which may include, but are not limited to, college and career advising, counseling, tutoring, costs incurred for students while school is not in session, personal expenses, health insurance, and emergency services. If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(8) $246,000 of the general fund—state appropriation for fiscal year 2008 and $246,000 of the general fund—state appropriation for fiscal year 2009 are for community scholarship matching grants and its administration. To be eligible for the matching grant, nonprofit groups organized under section 501(c)(3) of the federal internal revenue code must demonstrate they have raised at least $2,000 in new moneys for college scholarships after the effective date of this section. Groups may receive no more than one $2,000 matching grant per year and preference shall be given to groups affiliated with scholarship America. Up to a total of $46,000 per year of the amount appropriated in this section may be awarded to a nonprofit community organization to administer scholarship matching grants, with preference given to an organization affiliated with scholarship America.

(9) $75,000 of the general fund—state appropriation for fiscal year 2008 and ((~~$75,000~~)) $575,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(10) $500,000 of the general fund—state appropriation for fiscal year 2008 and $500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for implementation of Engrossed Substitute House Bill No. 1179 (state need grant). State need grants provided to students enrolled in just three to five credit-bearing quarter credits, or the equivalent semester credits, shall not exceed the amounts appropriated in this subsection. By November 1 of each year, the board shall report to the office of financial management and to the operating budget committees of the house of representatives and senate on the number of eligible but unserved students enrolled in just three to five quarterly credits, or the semester equivalent, and the estimated cost of serving them. If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(11) $5,000,000 of the education legacy trust account appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 1779 (GET ready for math and science). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(12) $1,250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the health professional scholarship and loan program. The funds provided in this subsection (a) shall be prioritized for health care deliver sites demonstrating a commitment to serving the uninsured; and (b) shall be allocated between loan repayments and scholarships proportional to current program allocations.

***Sec. 613 was partially vetoed. See message at end of chapter.**

Sec. 614. 2007 c 522 s 612 (uncodified) is amended to read as follows:

FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD

General Fund—State Appropriation (FY 2008) $1,757,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,772,000~~))
$1,736,000
General Fund—Federal Appropriation . . . . . ((~~$54,011,000~~))
$53,996,000
TOTAL APPROPRIATION . . . . . ((~~$57,540,000~~))
$57,489,000

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

(1) $340,000 of the general fund—state appropriation for fiscal year 2008 and $340,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the board to:

(a) Allocate grants on a competitive basis to establish and support industry skill panels. Grant recipients shall provide an employer match of at least twenty-five percent, and identify work force strategies to benefit employers and workers across the industry; and

(b) Establish industry skill panel standards that identify the expectations for industry skill panel products and services.

(2) $53,000 of the general fund—state appropriation for fiscal year 2008 and $53,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to improve the oversight of private vocational and career schools.

(3) The appropriations in this section include specific funding to implement Substitute Senate Bill No. 5254 (industry skills panels) and Substitute Senate Bill No. 6261 (adult youth).

(4) The appropriations in this section include sufficient funds to implement section 2 of Engrossed Substitute Senate Bill No. 6295 (workplace e-learning).

Sec. 615. 2007 c 522 s 613 (uncodified) is amended to read as follows:

FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE

General Fund—State Appropriation (FY 2008) $1,718,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,789,000~~))
$1,745,000
TOTAL APPROPRIATION . . . . . ((~~$3,507,000~~))
$3,463,000

Sec. 616. 2007 c 522 s 614 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF EARLY LEARNING

General Fund—State Appropriation (FY 2008) . . . . . ((~~$61,780,000~~))
$62,362,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$72,707,000~~))
$76,304,000
General Fund—Federal Appropriation . . . . . ((~~$192,360,000~~))
$192,192,000
General Fund—Private/Local Appropriation $6,000
TOTAL APPROPRIATION . . . . . ((~~$326,853,000~~))
$330,864,000

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

(1) $47,919,000 of the general fund—state appropriation for fiscal year 2008 and $56,437,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for early childhood education and assistance program services.

(a) Of these amounts, $10,284,000 is a portion of the biennial amount of state matching dollars required to receive federal child care and development fund grant dollars.

(b) Within the amounts provided in this subsection (1), the department shall increase the number of children receiving early childhood education and assistance program services by 2,250 slots.

(c) Within the amounts provided in this subsection (1), the department shall increase the minimum provider per slot payment to $6,500 in fiscal year 2008. Any provider receiving slot payments higher than $6,500 shall receive a 2.0 percent vendor rate increase in fiscal year 2008. All providers shall receive a 2.0 percent vendor rate increase in fiscal year 2009.

(2) $775,000 of the general fund—state appropriation for fiscal year 2008 and $4,225,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to: (a) Develop a quality rating and improvement system; and (b) pilot the quality rating and improvement system in multiple locations. Four of the pilot sites are to be located within the following counties: Spokane, Kitsap, King, and Yakima. The department shall analyze and evaluate the pilot sites and report initial findings to the legislature by December 1, 2008. Prior to statewide implementation of the quality rating and improvement system, the department of early learning shall present the system to the legislature and the legislature shall formally approve the implementation of the system through the omnibus appropriations act or by statute or concurrent resolution.

(3) $850,000 of the general fund—state appropriation for fiscal year 2008 and $850,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the department to contract for child care referral services.

(4) $1,200,000 of the general fund—state appropriation for fiscal year 2008 and $800,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to develop and provide culturally relevant supports for parents, family, and other caregivers. This includes funding for the department to conduct a random sample survey of parents to determine the types of early learning services and materials parents are interested in receiving from the state. The department shall report the findings to the appropriate policy and fiscal committees of the legislature by October 1, 2008.

(5) $250,000 of the general fund—state appropriation for fiscal year 2008 and $250,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a child care consultation pilot program linking child care providers with evidence-based and best practice resources regarding caring for infants and young children who present behavior concerns.

(6) $500,000 of the general fund—state appropriation for fiscal year 2008 and $500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to expand the child care career and wage ladder program created by chapter 507, Laws of 2005.

(7) $172,000 of the general fund—state appropriation for fiscal year 2008 is provided solely for the department to purchase licensing capability from the department of social and health services through the statewide automated child welfare information system.

(8) $1,100,000 of the general fund—state appropriation for fiscal year 2008 and $1,100,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for a childcare grant program for public community colleges and

public universities. A community college or university that employs collectively bargained staff to operate childcare programs may apply for up to $25,000 per year from the department per each type of the following programs: Head start, childcare, early childhood assistance and education. The funding shall only be provided for salaries for collectively bargained employees.

(9) Beginning October 1, 2007, the department shall be the lead agency for and recipient of the federal child care and development fund grant. Amounts within this grant shall be used to fund child care licensing, quality initiatives, agency administration, and other costs associated with child care subsidies. The department shall transfer a portion of this grant to the department of social and health services to partially fund the child care subsidies paid by the department of social and health services on behalf of the department of early learning.

(10) Prior to the development of an early learning information system, the department shall submit to the education and fiscal committees of the legislature a completed feasibility study and a proposal approved by the department of information systems and the information services board. The department shall ensure that any proposal for the early learning information system includes the cost for modifying the system as a result of licensing rule changes and implementation of the quality rating and improvement system.

(11) $250,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for implementation of Second Substitute House Bill No. 3168 (Washington head start program). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(12) The department, in conjunction with the early learning advisory council, shall report by June 30, 2009, to the governor and the appropriate committees of the legislature regarding the following:

(a) Administration of the state training and registry system, including annual expenditures, participants, and average hours of training provided per participant; and

(b) An evaluation of the child care resource and referral network in providing information to parents and training and technical assistance to child care providers.

(13) The department shall use child care development fund money to satisfy the federal audit requirement of the improper payments act (IPIA) of 2002. In accordance with the IPIA's rules, the money spent on the audits will not count against the five percent state limit on administrative expenditures.

(14) $150,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the department of early learning to work with the office of the superintendent of public instruction, and collaborate with thrive by five Washington, to study and make recommendations regarding the implementation of a statewide kindergarten entry assessment. The department and the office of the superintendent of public instruction shall jointly submit a report with recommendations for implementing the kindergarten entry assessment to the governor and the appropriate committees of the legislature by December 15, 2008. In the study and development of the recommendations, the department shall:

(a) Consult with early learning experts, including research and educator associations, early learning and kindergarten teachers, and Washington Indian tribes;

(b) Identify a preferred kindergarten entry assessment based on research and examples of other assessments, and which is sensitive to cultural and socioeconomic differences influencing the development of young children;

(c) Recommend a plan for the use of the assessment in a pilot phase and a voluntary use phase, and recommend a time certain when school districts must offer the assessment;

(d) Recommend how to report the results of the assessment to parents, the office of the superintendent of public instruction, and the department of early learning in a common format, and for a methodology for conducting the assessments;

(e) Analyze how the assessment could be used to improve instruction for individual students entering kindergarten and identify whether and how the assessment results could be used to improve the early learning and K-12 systems, including the transition between the systems;

(f) Identify the costs of the assessment, including the time required to administer the assessment; and

(g) Recommend how to ensure that the assessment shall not be used to screen or otherwise preclude children from entering kindergarten if they are otherwise eligible.

(15) $120,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for encouraging private match investment for innovative, existing local early learning coalitions to achieve one or more of the following:

(a) Increase communities' abilities to implement their business plans for comprehensive local and regional early learning systems;

(b) Involve parents in their children's education;

(c) Enhance coordination between the early childhood and K-12 system; or

(d) Improve training and support for raising the level of child care givers' professional skills to ensure that children are healthy and ready to succeed in school and life.

Sec. 617. 2007 c 522 s 615 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

General Fund—State Appropriation (FY 2008) . . . . . ((~~$5,958,000~~))
$5,969,000

General Fund—State Appropriation (FY 2009) . . . . . ((~~$6,186,000~~))
$6,105,000

General Fund—Private/Local Appropriation . . . . . ((~~$1,600,000~~))
$1,561,000

TOTAL APPROPRIATION . . . . . ((~~$13,744,000~~))
$13,635,000

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

(1) $10,000 of the general fund—state appropriation for fiscal year 2008 and $40,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to defend the state's interpretive position in the case of *Delyria & Koch v. Washington State School for the Blind*.

(2) $5,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for increasing salaries for certificated instructional staff by an average of one-half of one percent effective July 1, 2008.

Sec. 618. 2007 c 522 s 616 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE DEAF

General Fund—State Appropriation (FY 2008) . . . . . ((~~$8,731,000~~))
$8,858,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$9,015,000~~))
$8,915,000
General Fund—Private/Local Appropriation . . . . . ((~~$232,000~~))
$316,000
TOTAL APPROPRIATION . . . . . ((~~$17,978,000~~))
$18,089,000

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

(1) $84,000 of the general fund—private/local appropriation for fiscal year 2009 is provided solely for the operation of the shared reading video outreach program. The school for the deaf shall provide this service to the extent it is funded by contracts with school districts and educational service districts.

(2) $9,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for increasing salaries for certificated instructional staff by an average of one-half of one percent effective July 1, 2008.

Sec. 619. 2007 c 522 s 617 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE ARTS COMMISSION

General Fund—State Appropriation (FY 2008) $2,548,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,578,000~~))
$2,541,000
General Fund—Federal Appropriation $1,382,000
General Fund—Private/Local Appropriation $154,000
TOTAL APPROPRIATION . . . . . ((~~$6,662,000~~))
$6,625,000

Sec. 620. 2007 c 522 s 618 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE HISTORICAL SOCIETY

General Fund—State Appropriation (FY 2008) $3,558,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$3,609,000~~))
$3,798,000
TOTAL APPROPRIATION . . . . . ((~~$7,167,000~~))
$7,356,000

The appropriations in this section are subject to the following conditions and limitations: $255,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for the Washington state Holocaust education resource center for the purposes of preserving Washington's historical connection to the Holocaust and expanding understanding of the Holocaust and genocide. Grant moneys may be used to develop and disseminate education and multimedia curriculum resources; provide teacher training; acquire and maintain primary source materials and Holocaust artifacts; collect and preserve oral accounts from Washington state Holocaust survivors, liberators, and witnesses; and build organizational capacity.

Sec. 621. 2007 c 522 s 619 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

General Fund—State Appropriation (FY 2008) $1,918,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$2,046,000~~))
$2,069,000
TOTAL APPROPRIATION . . . . . ((~~$3,964,000~~))
$3,987,000

The appropriations in this section are subject to the following conditions and limitations: $88,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to catalog the American Indian collection.

PART VII
SPECIAL APPROPRIATIONS

Sec. 701. 2007 c 522 s 701 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT SUBJECT TO THE DEBT LIMIT

General Fund—State Appropriation (FY 2008) . . . . . ((~~$724,362,000~~))
$823,274,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$764,561,000~~))
$696,324,000
State Building Construction Account—State
Appropriation. . . . . ((~~$8,970,000~~))
$11,970,000
Columbia River Basin Water Supply Development
Account—State Appropriation $148,000
Hood Canal Aquatic Rehabilitation Bond
Account—State Appropriation $23,000
State Taxable Building Construction
Account—State Appropriation . . . . . ((~~$168,000~~))
$513,000
Gardner-Evans Higher Education Construction
Account—State Appropriation . . . . . ((~~$1,790,000~~))
$1,902,000
Debt-Limit Reimbursable Bond Retire
Account—State Appropriation . . . . . ((~~$2,624,000~~))
$2,589,000
TOTAL APPROPRIATION . . . . . ((~~$1,502,646,000~~))
$1,536,743,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for ((~~deposit~~)) expenditure into the debt-limit general fund bond retirement account. The entire general fund—state appropriation for fiscal year 2008 shall be expended into the debt-limit general fund bond retirement account by June 30, 2008.

Sec. 702. 2007 c 522 s 702 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY ENTERPRISE ACTIVITIES

State Convention and Trade Center Account—State Appropriation. . . . . ((~~$22,553,000~~)) $22,535,000
Accident Account—State Appropriation . . . . . ((~~$5,204,000~~)) $5,135,000
Medical Aid Account—State Appropriation . . . . . ((~~$5,204,000~~)) $5,135,000
TOTAL APPROPRIATION . . . . . ((~~$32,961,000~~)) $32,805,000

Sec. 703. 2007 c 522 s 703 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE

General Fund—State Appropriation (FY 2008) . . . . . ((~~$27,068,000~~)) $26,848,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$27,825,000~~)) $27,728,000
Nondebt-Limit Reimbursable Bond Retirement Account—State Appropriation . . . . . ((~~$136,332,000~~)) $135,967,000
TOTAL APPROPRIATION . . . . . ((~~$191,225,000~~)) $190,543,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for ((~~deposit~~)) expenditure into the nondebt-limit general fund bond retirement account. The entire general fund—state appropriation for fiscal year 2008 shall be expended into the nondebt-limit general fund bond retirement account by June 30, 2008.

Sec. 704. 2007 c 522 s 704 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES

General Fund—State Appropriation (FY 2008) . . . . . ((~~$1,357,000~~)) $750,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$1,357,000~~)) $750,000
State Building Construction Account—State Appropriation. $1,546,000
Columbia River Basin Water Supply Development Account—State Appropriation $17,000
Hood Canal Aquatic Rehabilitation Bond

Account—State Appropriation $3,000
State Taxable Building Construction
Account—State Appropriation $122,000
Gardner-Evans Higher Education Construction
Account—State Appropriation $452,000
TOTAL APPROPRIATION . . . . . ((~~$4,854,000~~))
$3,640,000

Sec. 705. 2007 c 522 s 705 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—FIRE CONTINGENCY POOL
Disaster Response Account—State Appropriation . . . . . ((~~$4,000,000~~))
$8,500,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is for the purpose of making allocations to the Washington state patrol for ((~~fire mobilizations costs or to the department of natural resources for fire suppression costs~~)) any Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964.

Sec. 706. 2007 c 522 s 706 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—FIRE CONTINGENCY
General Fund—State Appropriation (FY 2008) . . . . . ((~~$2,000,000~~))
$6,500,000
General Fund—State Appropriation (FY 2009) $2,000,000
TOTAL APPROPRIATION . . . . . ((~~$4,000,000~~))
$8,500,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the disaster response account for the purposes specified in section 705 of this act.

NEW SECTION. **Sec. 707.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR SUNDRY CLAIMS. The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of financial management, except as otherwise provided, as follows:

(1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:

(a) George E. Linkenhoker, claim number SCJ 2008-01 . . . . . $24,628
(b) Charles A. Gardner, claim number SCJ 2008-02 . . . . . $ 2,715
(c) Judd Hurst, claim number SCJ 2008-03 . . . . . $ 2,000
(d) Thomas J. Nelson, claim number SCJ 2008-04 . . . . . $ 5,000
(e) William R. Sauters, Jr., claim number SCJ 2008-05 . . . . . $11,408
(f) Michael E. Greene, claim number SCJ 2008-06 . . . . . $ 1,500
(g) Jeffery A. Cobb, claim number SCJ 2008-08 . . . . . $ 7,600

(h) Robert R. Park, claim number SCJ 2008-09 . . . . . $26,385
(i) Donald Willett, claim number SCJ 2008-11 . . . . . $6,600

Sec. 708. 2007 c 522 s 716 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—WATER QUALITY CAPITAL ACCOUNT

Water Quality Account—State Appropriation
(FY 2008). . . . . ((~~$25,135,000~~))
$19,274,000

Water Quality Account—State Appropriation
(FY 2009). $3,000,000
TOTAL APPROPRIATION $22,274,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the water quality capital account. ((~~If House Bill No. 1137 (water quality capital account) is not enacted by June 30, 2007, the appropriation in this section shall lapse.~~))

Sec. 709. 2007 c 522 s 718 (uncodified) is amended to read as follows:

INCENTIVE SAVINGS—FY 2008. The sum of one hundred twenty-five million dollars or so much thereof as may be available on June 30, 2008, from the total amount of unspent fiscal year 2008 state general fund appropriations, exclusive of amounts expressly placed into unallotted status by this act, is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed ((~~seventy-five~~)) one hundred million dollars, is appropriated to the education savings account.

Sec. 710. 2007 c 522 s 719 (uncodified) is amended to read as follows:

INCENTIVE SAVINGS—FY 2009. The sum of one hundred twenty-five million dollars or so much thereof as may be available on June 30, 2009, from the total amount of unspent fiscal year 2009 state general fund appropriations, exclusive of amounts expressly placed into unallotted status by this act, is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed ((~~seventy-five~~)) one hundred million dollars, is appropriated to the education savings account.

Sec. 711. 2007 c 522 s 722 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—COUNTY SUBSTANCE ABUSE PROGRAMS

General Fund—State Appropriation (FY 2008) $600,000
General Fund—State Appropriation (FY 2009) . . . . . ((~~$600,000~~)) $800,000
TOTAL APPROPRIATION . . . . . ((~~$1,200,000~~)) $1,400,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for allocation to counties that are eligible for funding for chemical dependency or substance abuse treatment programs pursuant to RCW 70.96A.325.

NEW SECTION. **Sec. 712.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—FEDERAL REIMBURSEMENT FOR HEALTH INSURANCE TRANSFERS
General Fund—State Appropriation (FY 2008) $11,000,000

The appropriation in this section is subject to the following conditions and limitations: The United States department of health and human services has determined that a portion of funds transferred from the public employees' and retirees' insurance account in fiscal years 2006 and 2007, made pursuant to sections 805 and 806, chapter 372, Laws of 2006, contained federal funds that were not authorized to be included in the transfer. The appropriation in this section is provided solely to reimburse the United States department of health and human services in accordance with their determination letter that the federal funds transferred from the public employees' and retirees' insurance account were transferred in error and must be reimbursed to the United States Treasury.

Sec. 713. 2007 c 522 s 1621 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—TECHNOLOGY FUNDING
General Fund—State Appropriation (FY 2007) $26,277,000
Special Technology Funding Revolving Account
Appropriation (((~~(FY 2008)~~))) . . . . . ((~~$37,964,000~~)) $35,222,000
TOTAL APPROPRIATION . . . . . ((~~$64,241,000~~)) $61,499,000

The appropriations in this section are provided solely for deposit to and expenditure from the data processing revolving account and are subject to the following conditions and limitations:

(1) The appropriations in this section, for expenditure to the data processing revolving account, are to be known as the "information technology funding pool" and are under the joint control of the department of information services and the office of financial management. The department of information services shall review information technology proposals and work jointly with the office of financial management to determine the projects to be funded and the amounts and timing of release of funds. To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special technology funding revolving account, hereby created in the state treasury, in accordance with

schedules provided by the office of financial management pursuant to LEAP Document ((~~ITA-2007~~)) ITA-2008 as developed by the legislative evaluation and program committee on ((~~April 20, 2007, at 13:01 hours~~)) February 26, 2008, at 16:00 hours.

(2) In exercising this authority, the department of information services and the office of financial management shall:

(a) Seek opportunities to reduce costs and achieve economies of scale by leveraging statewide investments in systems and data and other common or enterprise-wide solutions within and across state agencies that include standard software, hardware, and other information technology systems infrastructure, and common data definitions and data stores that promote the sharing of information across agencies whenever possible;

(b) Ensure agencies incorporate project management best practices and consider lessons learned from other information technology projects; and

(c) Develop criteria for the evaluation of information technology project funding proposals to include the determination of where common or coordinated technology or data solutions may be established, and identification of projects that cross fiscal biennia or are dependent on other prior, current, or future related investments.

(3) In allocating funds for the routine replacement of software and hardware, the information services board and office of financial management shall presume that agencies should have sufficient funding in their base allocation to pay for such replacement and that any allocations out of these funds are for extraordinary maintenance costs.

(((~~(5)~~))) (4) Funds in the 2007-09 biennium may only be expended on the projects listed on LEAP Document ((~~IT-2007~~)) IT-2008, as generated by the legislative evaluation and accountability program committee on ((~~April 20, 2007, at 13:01 hours~~)) February 26, 2008, at 16:00 hours. Future biennia allocations from the information technology funding pool shall be determined jointly by the department of information services and the office of financial management.

(((~~(6)~~))) (5) Beginning December 1, 2008, and every biennium thereafter, the department of information services shall submit a statewide information technology plan to the office of financial management and the legislative evaluation and accountability program committee that supports a consolidated funding request. In alternate years, a plan addendum shall be submitted that reflects any modified funding pool request requiring action in the ensuing supplemental budget session.

(((~~(7)~~))) (6) The department of information services shall report to the office of financial management and the legislative evaluation and accountability program committee by October 1, 2007, and annually thereafter, the status of planned allocations from funds appropriated in this section.

(((~~(8)~~))) (7) State agencies shall report project performance in consistent and comparable terms using common methodologies to calculate project performance by measuring work accomplished (scope and schedule) against work planned and project cost against planned budget. The department of information services shall provide implementation guidelines and oversight of project performance reporting.

(((~~(9)~~))) (8) The information services board shall require all agencies receiving funds appropriated in this section to account for project expenses included in an information technology portfolio report submitted annually to the department of information services, the office of financial management, and the legislative evaluation and accountability program committee by October 1st of each year. The department of information services, with the advice and approval of the office of financial management, shall establish criteria for complete and consistent reporting of expenditures from these funds and project staffing levels.

(((~~(10)~~))) (9) In consultation with the legislative evaluation and accountability program committee, the department of information services shall develop criteria for evaluating requests for these funds and shall report annually to the office of financial management and the legislative evaluation and accountability program committee by November 1st the status of distributions and expenditures from this pool.

NEW SECTION. **Sec. 714.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—HEALTH CARE AUTHORITY ADMINISTRATIVE ACCOUNT

General Fund—State Appropriation (FY 2008) $2,618,000
General Fund—State Appropriation (FY 2009) $1,993,000
Public Safety and Education Account—State
Appropriation (FY 2008) $13,000
Public Safety and Education Account—State
Appropriation (FY 2009) $13,000
Water Quality Account—State Appropriation (FY 2008) $4,000
Water Quality Account—State Appropriation (FY 2009) $4,000
Violence Reduction and Drug Enforcement Account—State
Appropriation (FY 2008) $1,000
Violence Reduction and Drug Enforcement Account—State
Appropriation (FY 2009) $1,000
Health Services Account—State Appropriation (FY 2008) $7,000
Health Services Account—State Appropriation (FY 2009) $7,000
Dedicated Funds and Accounts Appropriation $640,000
TOTAL APPROPRIATION $5,301,000

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

(1) The appropriations are provided solely for expenditure into the health care authority administrative account.

(2) To facilitate the transfer of moneys from dedicated funds and accounts, the office of financial management shall transfer or direct the transfer of sufficient moneys from each dedicated fund or account, including local funds of state agencies and institutions of higher education, to the health care authority administrative account in accordance with LEAP document number C04-2008, dated March 10, 2008. Agencies and institutions of higher education with local funds will deposit sufficient money to the health care authority administrative account.

Sec. 715. 2007 c 522 s 728 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—COMMUNITY PRESERVATION AND DEVELOPMENT ACCOUNT

General Fund—State Appropriation (FY 2008) $350,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the community preservation and development authority account. If Substitute Senate Bill No. 6156 (community preservation authorities) is not enacted by June 30, 2007, the appropriation in this section shall lapse.

NEW SECTION. **Sec. 716.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM ACCOUNT

General Fund—State Appropriation (FY 2008) $500,000
General Fund—State Appropriation (FY 2009) $500,000
TOTAL APPROPRIATION $1,000,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the individual development account program account.

NEW SECTION. **Sec. 717.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—SKELETAL HUMAN REMAINS ASSISTANCE ACCOUNT

General Fund—State Appropriation (FY 2008) $500,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the skeletal human remains assistance account for purposes of Engrossed Second Substitute House Bill No. 2624 (human remains). If the bill is not enacted by June 30, 2008, the amount provided in this section shall lapse.

NEW SECTION. **Sec. 718.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—MANUFACTURING INNOVATION AND MODERNIZATION ACCOUNT

General Fund—State Appropriation (FY 2009) $306,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the manufacturing innovation and modernization account.

NEW SECTION. **Sec. 719.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—COLUMBIA RIVER WATER DELIVERY ACCOUNT

General Fund—State Appropriation (FY 2009) $2,150,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for expenditure into the Columbia river water delivery account pursuant to Engrossed Second Substitute Senate Bill No. 6874 (Columbia river water). If the bill is not enacted by June 30, 2008, the amount provided in this section shall lapse.

NEW SECTION. **Sec. 720.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—FAMILY LEAVE INSURANCE ACCOUNT

General Fund—State Appropriation (FY 2008) $6,218,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the family leave insurance account.

NEW SECTION. **Sec. 721.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—EXTRAORDINARY CRIMINAL JUSTICE COSTS

General Fund—State Appropriation (FY 2008) $189,000

The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute $48,000 to Klickitat county and $141,000 to Yakima county for extraordinary criminal justice costs.

NEW SECTION. **Sec. 722.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—DEVELOPMENTAL DISABILITIES ENDOWMENT TRUST FUND

General Fund—State Appropriation (FY 2009) $100,000

The appropriation in this section is subject to the following conditions and limitations: $100,000 of the general fund—state appropriation for fiscal year 2009 is provided solely for expenditure into the developmental disabilities endowment trust fund.

NEW SECTION. **Sec. 723.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—SMART HOMEOWNERSHIP CHOICES PROGRAM ACCOUNT

General Fund—State Appropriation (FY 2008) $250,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the smart homeownership choices program account for purposes of Substitute Senate Bill No. 6711 (smart homeownership choices). If the bill is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

NEW SECTION. **Sec. 724.** 2007 c 522 s 713 (uncodified) is repealed.

PART VIII
OTHER TRANSFERS AND APPROPRIATIONS

Sec. 801. 2007 c 522 s 801 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

General Fund Appropriation for fire insurance premium distributions . . . . . ((~~$7,325,000~~)) $7,654,000

General Fund Appropriation for public utility district excise tax distributions . . . . . ((~~$49,656,000~~)) $47,557,000

General Fund Appropriation for prosecuting attorney distributions. Of this amount, $903,000 is provided solely for the implementation of Substitute Senate Bill No. 6297 (prosecuting attorney salaries). If the bill is not enacted by June 30, 2008, the amount provided shall lapse. . . . . ((~~$3,999,000~~)) $4,902,000

General Fund Appropriation for boating safety and education distributions . . . . . ((~~$4,833,000~~)) $4,400,000

General Fund Appropriation for other tax distributions . . . . . ((~~$42,000~~)) $48,000

General Fund Appropriation for habitat conservation program distributions $1,245,000

Columbia River Water Delivery Account Appropriation for the Confederated Tribes of the Colville Reservation. This amount is provided solely for implementation of Engrossed Substitute Senate Bill No. 6874 (Columbia River water delivery). If the bill is not enacted by June 30, 2008, this amount shall lapse. $3,775,000

Columbia River Water Delivery Account Appropriation for the Spokane Tribe of Indians. This amount is provided solely for implementation of Engrossed Substitute Senate Bill No. 6874 (Columbia River water delivery). If the bill is not enacted by June 30, 2008, this amount shall lapse. $2,250,000

Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies $2,192,000

Aquatic Lands Enhancement Account Appropriation

for harbor improvement revenue distribution $148,000
Timber Tax Distribution Account Appropriation
for distribution to "timber" counties . . . . . ((~~$89,346,000~~))
$77,753,000
County Criminal Justice Assistance Appropriation . . . . . ((~~$58,906,000~~))
$62,127,000
Municipal Criminal Justice Assistance
Appropriation. . . . . ((~~$23,359,000~~))
$24,636,000
Liquor Excise Tax Account Appropriation for
liquor excise tax distribution . . . . . ((~~$45,472,000~~))
$49,397,000
Liquor Revolving Account Appropriation for liquor
profits distribution . . . . . ((~~$93,399,000~~))
$82,148,000
City-County Assistance Account Appropriation for local
government financial assistance distribution;
PROVIDED: That the legislature, in making this
appropriation for distribution under the formula
prescribed in RCW 43.08.290 for the 2007-09
biennium, ratifies and approves the prior
distributions, as certified by the department
of revenue to the state treasurer, made for the
2005-07 biennium from the appropriation in
section 801, chapter 372, Laws of 2006 as amended
by section 1701, chapter 522, Laws of 2007 . . . . . ((~~$31,272,000~~))
$29,865,000
Streamline Sales and Use Tax Account Appropriation
for distribution to local taxing jurisdictions
to mitigate the unintended revenue redistribution
effect of the sourcing law changes. $31,600,000
TOTAL APPROPRIATION. . . . . ((~~$441,549,000~~))
$431,697,000

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

Sec. 802. 2007 c 522 s 805 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS.

State Treasurer's Service Account: For
transfer to the state general fund,
$10,000,000 for fiscal year 2008 and
((~~$10,000,000~~)) $21,000,000 for fiscal year
2009 . . . . . ((~~$20,000,000~~))
$31,000,000
Education Legacy Trust Account: For transfer to
the state general fund for fiscal year 2009. . . . . $67,000,000
Pension Funding Stabilization Account: For

transfer to the state general fund for fiscal year 2009 . . . . . $10,000,000

Economic Development Strategic Reserve Account: For transfer to the state general fund for fiscal year 2009 . . . . . $4,000,000

State Convention and Trade Center Operations Account: For transfer to the state general fund on June 30, 2009 . . . . . $5,000,000

State Convention and Trade Center Capital Account: For transfer to the state general fund on June 30, 2009 . . . . . $52,000,000

After the transfers in this section are made from the state convention and trade center operations and capital accounts, these accounts will have sufficient funds for: (1) A ten million dollar requirement for the retrofit of the museum of history and industry; (2) the requirements of RCW 67.40.040(5) and 67.40.040(6); and (3) a sufficient capital reserve. After the transfer is made, the capital reserve may be applicable for payment of debt service or operating shortfalls.

Department of Retirement Systems Expense Account: For transfer to the state general fund for fiscal year 2009 . . . . . $5,000,000

General Fund: For transfer to the water quality account, $12,200,000 for fiscal year 2008 and $12,201,000 for fiscal year 2009 . . . . . $24,401,000

Education Legacy Trust Account: For transfer to the student achievement account for fiscal year 2009 . . . . . $90,800,000

Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account, an amount not to exceed $25,000,000

Public Works Assistance Account: For transfer to the drinking water assistance account, ((~~$3,600,000~~)) $7,200,000 for fiscal year 2008 and $3,600,000 for fiscal year 2009 . . . . . ((~~$7,200,000~~)) $10,800,000

Public Works Assistance Account: For transfer to the job development account, $25,000,000 for fiscal year 2008 and $25,000,000 for fiscal year 2009 . . . . . $50,000,000

State Toxics Control Account: For transfer to the oil spill prevention account for fiscal year 2009 . . . . . $2,400,000

Tobacco Settlement Account: For transfer to the health services account, in an amount not to exceed the actual amount

of the annual base payment to the tobacco settlement account . . . . . ((~~$165,915,000~~)) $168,111,000

Tobacco Settlement Account: For transfer to the life sciences discovery fund, in an amount not to exceed the actual amount of the strategic contribution supplemental payment to the tobacco settlement account $70,000,000

Health Services Account: For transfer to the water quality account, $3,942,500 for fiscal year 2008 and $3,942,500 for fiscal year 2009 . . . . . $7,885,000

Health Services Account: For transfer to the violence reduction and drug enforcement account, $3,466,000 for fiscal year 2008 and $3,466,000 for fiscal year 2009 . . . . . $6,932,000

Health Services Account: For transfer to the tobacco prevention and control account, ((~~$10,226,552~~)) $10,523,000 for fiscal year 2008 and ((~~$10,109,109~~)) $10,168,000 for fiscal year 2009 . . . . . ((~~$20,336,000~~)) $20,691,000

General Fund: For transfer to the streamline sales and use tax account for fiscal year 2009 . . . . . $31,600,000

((~~If Substitute Senate Bill No. 5089 (streamlined sales tax) is not enacted by June 30, 2009, this transfer shall lapse.~~))

General Fund: For transfer to the health services account for fiscal year 2009 . . . . . $53,000,000

Nisqually Earthquake Account: For transfer to the disaster response account for fiscal year 2008 . . . . . $3,000,000

Public Safety and Education Account: For transfer to the state general fund for fiscal year 2009 . . . . . $6,000,000

NEW SECTION. **Sec. 803.** A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE DEPARTMENT OF REVENUE—STATE REVENUE FOR DISTRIBUTION

General Fund Appropriation for fiscal year 2008 . . . . . $422,012

The appropriation in this section is subject to the following conditions and limitations: Revenues for the general fund are reduced to correct for a prior period distribution shortage of $422,012. This represents one time distributions to Jefferson County in the amount of $352,196, and Klickitat County in the amount of $89,816, to be used in accordance with RCW 82.14.370.

PART IX
MISCELLANEOUS

Sec. 901. 2007 c 522 s 910 (uncodified) is amended to read as follows:

COMPENSATION—NONREPRESENTED EMPLOYEES—INSURANCE BENEFITS. Appropriations for state agencies in this act are sufficient

for nonrepresented state employee health benefits for state agencies, including institutions of higher education are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed $707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed ((~~$732~~)) $561 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065, but in no case to increase the actuarial value of the plans offered as compared to the comparable plans offered to enrollees in calendar year 2007.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be $164.08. Starting January 1, 2009, the subsidy shall be $182.89 per month.

(3) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, $57.71 per month beginning September 1, 2007, and ((~~$65.97~~)) $60.40 beginning September 1, 2008;

(b) For each part-time employee, who at the time of the remittance is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, $57.71 each month beginning September 1, 2007, and ((~~$65.97~~)) $60.40 beginning September 1, 2008, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives. The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

Sec. 902. 2007 c 522 s 911 (uncodified) is amended to read as follows:

COMPENSATION—REPRESENTED EMPLOYEES OUTSIDE SUPER COALITION—INSURANCE BENEFITS. The appropriations for state agencies, including institutions of higher education are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, for represented employees outside the super coalition under chapter 41.80 RCW, shall not exceed $707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed ((~~$732~~)) $561 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065, but in no case to increase the actuarial value of the plans offered as compared to the comparable plans offered to enrollees in calendar year 2007.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be $164.08. Starting January 1, 2009, the subsidy shall be $182.89 per month.

(3) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, $57.71 per month beginning September 1, 2007, and ((~~$65.97~~)) $60.40 beginning September 1, 2008;

(b) For each part-time employee, who at the time of the remittance is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, $57.71 each month beginning September 1, 2007, and ((~~$65.97~~)) $60.40 beginning September 1, 2008, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives. The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

Sec. 903. 2007 c 522 s 912 (uncodified) is amended to read as follows:

COMPENSATION—REPRESENTED EMPLOYEES—SUPER COALITION. Collective bargaining agreements negotiated as part of the super coalition under chapter 41.80 RCW include employer contributions to health insurance premiums at 88% of the cost. Funding rates at this level are currently $707 per month for fiscal year 2008 and ((~~$732~~)) $561 per month for fiscal year 2009. The agreements also include a one-time payment of $756 for each employee who is eligible for insurance for the month of June 2007 and is

covered by a 2007-2009 collective bargaining agreement negotiated pursuant to chapter 41.80 RCW, and the continuation of the salary increases that were negotiated for the twelve-month period beginning July 1, 2006, and scheduled to terminate June 30, 2007.

Sec. 904. 2007 c 522 s 913 (uncodified) is amended to read as follows:

ACROSS THE BOARD SALARY ADJUSTMENTS. Appropriations for state agency nonrepresented employee compensation adjustments in this act are sufficient for across the board adjustments.

(1) Appropriations are for a 3.2 percent salary increase effective September 1, 2007, for all classified employees, except those represented by a collective bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, and except the certificated employees of the state schools for the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel.

The appropriations are also sufficient to fund a 3.2 percent salary increase effective September 1, 2007, for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(2) Appropriations are for a 2.0 percent salary increase effective September 1, 2008, for all classified employees, except those represented by a collective bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, and except for the certificated employees of the state schools of the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel. The appropriations are also sufficient to fund a 2.0 percent salary increase effective September 1, 2008, for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(3) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the director of personnel.

NEW SECTION. **Sec. 905.** A new section is added to 2007 c 522 (uncodified) to read as follows:

SUPPLEMENTAL COLLECTIVE BARGAINING AGREEMENT—TEAMSTERS.

Appropriations in this act reflect the supplemental collective bargaining agreement reached between the governor and the brotherhood of teamsters under the provisions of chapter 41.80 RCW. Select classifications will receive wage increases effective July 1, 2008, to address recruitment and retention issues. Select employees covered under this supplemental agreement will receive targeted increases to the base salary and/or increases relating to assignment in a specific geographic work location. These provisions are in addition to the general terms of the collective bargaining agreement effective July 1, 2007.

NEW SECTION. Sec. 906. A new section is added to 2007 c 522 (uncodified) to read as follows:

FOR THE WASHINGTON STATE GAMBLING COMMISSION—GAMBLING REVOLVING FUND. Pursuant to RCW 43.88.050, the gambling commission and the office of financial management may address the cash flow of the gambling revolving fund in anticipation of payments of forfeiture revenue from the federal government.

***Sec. 906 was vetoed. See message at end of chapter.**

NEW SECTION. **Sec. 907.** A new section is added to 2007 c 522 (uncodified) to read as follows:

COLLECTIVE BARGAINING AGREEMENT—CENTRAL WASHINGTON UNIVERSITY, PSE. Funding is provided for a collective bargaining agreement that may be reached between Central Washington University and the public school employees of Washington. Funding provided is sufficient for the 2.0% salary increase to be effective July 1, 2008, rather than September 1, 2008. If an agreement is not reached by June 30, 2008, the funding shall lapse.

Sec. 908. RCW 28B.105.110 and 2007 c 214 s 11 are each amended to read as follows:

(1) The GET ready for math and science scholarship account is created in the custody of the state treasurer.

(2) The board shall deposit into the account all money received for the GET ready for math and science scholarship program from appropriations and private sources. The account shall be self-sustaining.

(3) Expenditures from the account shall be used for scholarships to eligible students and for purchases of GET units. Purchased GET units shall be owned and held in trust by the board. Expenditures from the account shall be an equal match of state appropriations and private funds raised by the program administrator. During the 2007-09 fiscal biennium, expenditures from the account not to exceed five percent may be used by the program administrator to carry out the provisions of RCW 28B.105.090.

(4) With the exception of the operating costs associated with the management of the account by the treasurer's office as authorized in chapter 43.79A RCW, the account shall be credited with all investment income earned by the account.

(5) Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW.

(6) Disbursements from the account shall be made only on the authorization of the board.

Sec. 909. RCW 38.52.106 and 2003 1st sp.s. c 25 s 913 are each amended to read as follows:

The Nisqually earthquake account is created in the state treasury. Moneys may be placed in the account from tax revenues, budget transfers or appropriations, federal appropriations, gifts, or any other lawful source. Moneys in the account may be spent only after appropriation. Moneys in the account shall be used only to support state and local government disaster response and recovery efforts associated with the Nisqually earthquake. During the 2003-2005 fiscal biennium, the legislature may transfer moneys from the Nisqually earthquake account to the disaster response account for fire suppression and mobilization costs. During the 2007-2009 fiscal biennium, moneys in the

account may also be used to support disaster response and recovery efforts associated with flood and storm damage.

Sec. 910. RCW 41.45.230 and 2006 c 56 s 1 are each amended to read as follows:

The pension funding stabilization account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for payment of state government employer contributions for members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, and the public safety employees' retirement system. During the 2007-09 fiscal biennium, expenditures from the account may also be used for payment of the retirement and annuity plans for higher education employees and for transfer into the general fund. The account may not be used to pay for any new benefit or for any benefit increase that takes effect after July 1, 2005. An increase that is provided in accordance with a formula that is in existence on July 1, 2005, is not considered a benefit increase for this purpose. Moneys in the account shall be for the exclusive use of the specified retirement systems and invested by the state investment board pursuant to RCW 43.33A.030 and 43.33A.170. For purposes of RCW 43.135.035, expenditures from the pension funding stabilization account shall not be considered a state program cost shift from the state general fund to another account.

Sec. 911. RCW 41.50.110 and 2005 c 518 s 923 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department, the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, 41.37, 43.43, and 44.44 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, 41.37.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, 41.37.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses other than those under RCW 41.34.060(3) shall be paid pursuant to subsection (1) of this section.

(7) During the ((~~2005-2007~~)) 2007-2009 fiscal biennium, the legislature may transfer from the department of retirement systems' expense fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 912. RCW 43.08.190 and 2005 c 518 s 925 are each amended to read as follows:

There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund." Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79A.040 or 43.84.092(4)(((~~b~~))). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate based on the appropriations for the treasurer's office.

During the ((~~2005-2007~~)) 2007-2009 fiscal biennium, the legislature may transfer from the state treasurer's service fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 913. RCW 43.08.250 and 2007 c 522 s 950 are each amended to read as follows:

(1) The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons under RCW 2.53.030, winter recreation parking, drug court operations,

and state game programs. Through the fiscal biennium ending June 30, 2009, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense and other operations of the office of public defense, the criminal litigation unit of the attorney general's office, the treatment alternatives to street crimes program, crime victims advocacy programs, justice information network telecommunication planning, treatment for supplemental security income clients, sexual assault treatment, operations of the administrative office of the courts, security in the common schools, alternative school start-up grants, programs for disruptive students, criminal justice data collection, Washington state patrol criminal justice activities, drug court operations, unified family courts, local court backlog assistance, financial assistance to local jurisdictions for extraordinary costs incurred in the adjudication of criminal cases, domestic violence treatment and related services, the department of corrections' costs in implementing chapter 196, Laws of 1999, reimbursement of local governments for costs associated with implementing criminal and civil justice legislation, the replacement of the department of corrections' offender-based tracking system, secure and semi-secure crisis residential centers, HOPE beds, the family policy council and community public health and safety networks, the street youth program, public notification about registered sex offenders, and narcotics or methamphetamine-related enforcement, education, training, and drug and alcohol treatment services. During the 2007-2009 fiscal biennium, the legislature may transfer from the public safety and education account to the state general fund such amounts as to reflect the excess fund balance of the fund.

(2)(a) The equal justice subaccount is created as a subaccount of the public safety and education account. The money received by the state treasurer from the increase in fees imposed by sections 9, 10, 12, 13, 14, 17, and 19, chapter 457, Laws of 2005 shall be deposited in the equal justice subaccount and shall be appropriated only for:

(i) Criminal indigent defense assistance and enhancement at the trial court level, including a criminal indigent defense pilot program;

(ii) Representation of parents in dependency and termination proceedings;

(iii) Civil legal representation of indigent persons; and

(iv) Contribution to district court judges' salaries and to eligible elected municipal court judges' salaries.

(b) For the 2005-07 fiscal biennium, an amount equal to twenty-five percent of revenues to the equal justice subaccount, less one million dollars, shall be appropriated from the equal justice subaccount to the administrator for the courts for purposes of (a)(iv) of this subsection. For the 2007-09 fiscal biennium and subsequent fiscal biennia, an amount equal to fifty percent of revenues to the equal justice subaccount shall be appropriated from the equal justice subaccount to the administrator for the courts for the purposes of (a)(iv) of this subsection.

Sec. 914. RCW 43.330.250 and 2005 c 427 s 1 are each amended to read as follows:

(1) The economic development strategic reserve account is created in the state treasury to be used only for the purposes of this section.

(2) Only the governor, with the recommendation of the director of the department of community, trade, and economic development and the economic development commission, may authorize expenditures from the account.

(3) Expenditures from the account shall be made in an amount sufficient to fund a minimum of one staff position for the economic development commission and to cover any other operational costs of the commission.

(4) During the 2007-2009 fiscal biennium, moneys in the account may also be transferred into the state general fund.

(5) Expenditures from the account may be made to prevent closure of a business or facility, to prevent relocation of a business or facility in the state to a location outside the state, or to recruit a business or facility to the state. Expenditures may be authorized for:

(a) Workforce development;

(b) Public infrastructure needed to support or sustain the operations of the business or facility; and

(c) Other lawfully provided assistance, including, but not limited to, technical assistance, environmental analysis, relocation assistance, and planning assistance. Funding may be provided for such assistance only when it is in the public interest and may only be provided under a contractual arrangement ensuring that the state will receive appropriate consideration, such as an assurance of job creation or retention.

((~~(5)~~)) (6) The funds shall not be expended from the account unless:

(a) The circumstances are such that time does not permit the director of the department of community, trade, and economic development or the business or facility to secure funding from other state sources;

(b) The business or facility produces or will produce significant long-term economic benefits to the state, a region of the state, or a particular community in the state;

(c) The business or facility does not require continuing state support;

(d) The expenditure will result in new jobs, job retention, or higher incomes for citizens of the state;

(e) The expenditure will not supplant private investment; and

(f) The expenditure is accompanied by private investment.

((~~(6)~~)) (7) No more than three million dollars per year may be expended from the account for the purpose of assisting an individual business or facility pursuant to the authority specified in this section.

((~~(7)~~)) (8) If the account balance in the strategic reserve account exceeds fifteen million dollars at any time, the amount in excess of fifteen million dollars shall be transferred to the education construction account.

Sec. 915. RCW 50.16.010 and 2007 c 327 s 4 are each amended to read as follows:

(1) There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

(2)(a) The unemployment compensation fund shall consist of:

(i) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title;

(ii) Any property or securities acquired through the use of moneys belonging to the fund;

(iii) All earnings of such property or securities;

(iv) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended;

(v) All money recovered on official bonds for losses sustained by the fund;

(vi) All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended;

(vii) All money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304); and

(viii) All moneys received for the fund from any other source.

(b) All moneys in the unemployment compensation fund shall be commingled and undivided.

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(i) All interest on delinquent contributions collected pursuant to this title;

(ii) All fines and penalties collected pursuant to the provisions of this title;

(iii) All sums recovered on official bonds for losses sustained by the fund; and

(iv) Revenue received under RCW 50.24.014.

(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW.

(c) During the 2007-2009 biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature for the (i) cost of the job skills program at the community and technical colleges, and (ii) reemployment services such as business and project development assistance, local economic development capacity building, and local economic development financial assistance at the department of community, trade, and economic development, and the remaining appropriation upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary solely for:

(i) The proper administration of this title and that insufficient federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(ii) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014, 50.44.053, and 50.22.010.

Sec. 916. RCW 67.40.025 and 1988 ex.s. c 1 s 2 are each amended to read as follows:

All operating revenues received by the corporation formed under RCW 67.40.020 shall be deposited in the state convention and trade center operations account, hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation by statute, and may be used only for operation and promotion of the center. During the 2007-2009 fiscal biennium, moneys in the account may also be transferred to the state general fund.

Subject to approval by the office of financial management under RCW 43.88.260, the corporation may expend moneys for operational purposes in excess of the balance in the account, to the extent the corporation receives or will receive additional operating revenues.

As used in this section, "operating revenues" does not include any moneys required to be deposited in the state convention and trade center account.

Sec. 917. RCW 67.40.040 and 2007 c 228 s 106 are each amended to read as follows:

(1) The proceeds from the sale of the bonds authorized in RCW 67.40.030, proceeds of the taxes imposed under RCW 67.40.090 and 67.40.130, and all other moneys received by the state convention and trade center from any public or private source which are intended to fund the acquisition, design, construction, expansion, exterior cleanup and repair of the Eagles building, conversion of various retail and other space to meeting rooms, purchase of the land and building known as the McKay Parcel, development of low-income housing, or renovation of the center, and those expenditures authorized under RCW 67.40.170 shall be deposited in the state convention and trade center account hereby created in the state treasury and in such subaccounts as are deemed appropriate by the directors of the corporation.

(2) Moneys in the account, including unanticipated revenues under RCW 43.79.270, shall be used exclusively for the following purposes in the following priority:

(a) For reimbursement of the state general fund under RCW 67.40.060;

(b) After appropriation by statute:

(i) For payment of expenses incurred in the issuance and sale of the bonds issued under RCW 67.40.030;

(ii) For expenditures authorized in RCW 67.40.170, and during the 2007-2009 biennium, the legislature may transfer from the state convention and trade center account to the general fund such amounts as reflect the excess fund balance in the account;

(iii) For acquisition, design, and construction of the state convention and trade center;

(iv) For debt service for the acquisition, design, and construction and retrofit of the museum of history and industry museum property or other future expansions of the convention center as approved by the legislature; and

(v) For reimbursement of any expenditures from the state general fund in support of the state convention and trade center; and

(c) For transfer to the state convention and trade center operations account.

(3) The corporation shall identify with specificity those facilities of the state convention and trade center that are to be financed with proceeds of general obligation bonds, the interest on which is intended to be excluded from gross income for federal income tax purposes. The corporation shall not permit the extent or manner of private business use of those bond-financed facilities to be inconsistent with treatment of such bonds as governmental bonds under applicable provisions of the Internal Revenue Code of 1986, as amended.

(4) In order to ensure consistent treatment of bonds authorized under RCW 67.40.030 with applicable provisions of the Internal Revenue Code of 1986, as amended, and notwithstanding RCW 43.84.092, investment earnings on bond proceeds deposited in the state convention and trade center account in the state treasury shall be retained in the account, and shall be expended by the corporation for the purposes authorized under chapter 386, Laws of 1995 and in a manner consistent with applicable provisions of the Internal Revenue Code of 1986, as amended.

(5) Subject to the conditions in subsection (6) of this section, starting in fiscal year 2008, the state treasurer shall transfer:

(a) The sum of four million dollars, or as much as may be available pursuant to conditions set forth in this section, from the state convention and trade center account to the tourism enterprise account, with the maximum transfer being four million dollars per fiscal year; and

(b) The sum of five hundred thousand dollars, or as much as may be available pursuant to conditions set forth in this section, from the state convention and trade center account to the tourism development and promotion account, with the maximum transfer being five hundred thousand dollars per fiscal year.

(6)(a) Funds required for debt service payments and reserves for bonds issued under RCW 67.40.030; for debt service authorized under RCW 67.40.170; and for the issuance and sale of financial instruments associated with the acquisition, design, construction, and retrofit of the museum of history and industry museum property or for other future expansions of the center, as approved by the legislature, shall be maintained within the state convention and trade center account.

(b) No less than six million one hundred fifty thousand dollars per year shall be retained in the state convention and trade center account for funding capital maintenance as required by the center's long-term capital plan, facility enhancements, unanticipated replacements, and operating reserves for the convention center operation. This amount shall be escalated annually as follows:

(i) Four percent for annual inflation for capital maintenance, repairs, and replacement;

(ii) An additional two percent for enhancement to the facility; and

(iii) An additional three percent for growth in expenditure due to aging of the facility and the need to maintain an operating reserve.

(c) Sufficient funds shall be reserved within the state convention and trade center account to fund operating appropriations for the annual operation of the convention center.

Sec. 918. RCW 70.96A.350 and 2003 c 379 s 11 are each amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance abuse treatment and treatment support services for offenders with an addiction or a substance abuse problem that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; ((~~and~~)) (b) the provision of drug and alcohol treatment services and treatment support services for nonviolent offenders within a drug court program; and (c) during the 2007-2009 biennium, operation of the integrated crisis response and intensive case management pilots contracted with the department of social and health services division of alcohol and substance abuse. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance abuse treatment program, but does not include the following services: Housing other than that provided as part of an inpatient substance abuse treatment program, vocational training, and mental health counseling; and

(b) "Treatment support" means transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal biennium beginning July 1, 2003, the state treasurer shall transfer eight million nine hundred fifty thousand dollars from the general fund into the criminal justice treatment account, divided into eight equal quarterly payments. For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) For the fiscal biennium beginning July 1, 2003, and each biennium thereafter, the state treasurer shall transfer two million nine hundred eighty-four thousand dollars from the general fund into the violence reduction and drug enforcement account, divided into eight quarterly payments. The amounts transferred pursuant to this subsection (4)(b) shall be used solely for providing drug and alcohol treatment services to offenders confined in a state correctional facility who are assessed with an addiction or a substance abuse problem that if not treated would result in addiction.

(c) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to

the division of alcohol and substance abuse for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the division of alcohol and substance abuse from the criminal justice treatment account shall be distributed as specified in this subsection. The department shall serve as the fiscal agent for purposes of distribution. Until July 1, 2004, the department may not use moneys appropriated from the criminal justice treatment account for administrative expenses and shall distribute all amounts appropriated under subsection (4)(c) of this section in accordance with this subsection. Beginning in July 1, 2004, the department may retain up to three percent of the amount appropriated under subsection (4)(c) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the division from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The division of alcohol and substance abuse, in consultation with the department of corrections, the sentencing guidelines commission, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance abuse treatment providers, and any other person deemed by the division to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the division from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The division shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, substance abuse treatment providers, and the division. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The funds shall be used solely to provide approved alcohol and substance abuse treatment pursuant to RCW 70.96A.090 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county

or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) Counties must meet the criteria established in RCW 2.28.170(3)(b).

Sec. 919. RCW 70.105D.070 and 2007 c 341 s 30 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW

82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment.

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, shall, except as conditioned by RCW 70.105D.120, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process.

(c) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction,

maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2007-2009 fiscal biennium, the local toxics control account may also be used for a standby rescue tug at Neah Bay.

Sec. 920. RCW 70.105D.070 and 2007 c 446 s 2 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW

82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: (i) Remedial actions; (ii) hazardous waste plans and programs under chapter 70.105 RCW; (iii) solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW; (iv) funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and (v) cleanup and disposal of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment. For purposes of this subsection (3)(a)(v), "abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW. During the 1999-2001 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals. During the 2005-2007 fiscal biennium, the legislature may transfer from the local toxics control account to the state toxics control account such amounts as specified in the omnibus capital budget bill. During the 2005-2007 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(c) To expedite cleanups throughout the state, the department shall partner with local communities and liable parties for cleanups. The department is authorized to use the following additional strategies in order to ensure a healthful environment for future generations:

(i) The director may alter grant-matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(A) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(B) Funding would create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or

(C) Funding would create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property under RCW 70.105D.040(5) that would not otherwise occur;

(ii) The use of outside contracts to conduct necessary studies;

(iii) The purchase of remedial action cost-cap insurance, when necessary to expedite multiparty clean-up efforts.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2005-2007 fiscal biennium, the legislature may transfer from the state toxics control account to the water quality account such amounts as reflect the excess fund balance of the fund.

(9) During the 2007-2009 fiscal biennium, the local toxics control account may also be used for a standby rescue tug at Neah Bay.

Sec. 921. RCW 70.105D.070 and 2007 c 522 s 954 and 2007 c 520 s 6033 are each reenacted and amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: (i) Remedial actions; (ii) hazardous waste plans and programs under chapter 70.105 RCW; (iii) solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW; (iv) funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and (v) cleanup and disposal of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment. For purposes of this subsection (3)(a)(v), "abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW. During the 1999-2001 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals. During the 2005-2007 fiscal biennium, the legislature may transfer from the local toxics control account to the state toxics control account such amounts as specified in the omnibus capital budget bill. During the 2007-2009 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall

reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2007-2009 fiscal biennium, the local toxics control account may also be used for a standby rescue tug at Neah Bay.

Sec. 922. RCW 74.08A.340 and 2007 c 522 s 957 are each amended to read as follows:

The department of social and health services shall operate the Washington WorkFirst program authorized under RCW 74.08A.200 through 74.08A.330, 43.330.145, ((~~74.13.0903~~)) 43.215.545, and 74.25.040, and chapter 74.12 RCW within the following constraints:

(1) The full amount of the temporary assistance for needy families block grant, plus qualifying state expenditures as appropriated in the biennial operating budget, shall be appropriated to the department each year in the biennial appropriations act to carry out the provisions of the program authorized in RCW 74.08A.200 through 74.08A.330, 43.330.145, ((~~74.13.0903~~)) 43.215.545, and 74.25.040, and chapter 74.12 RCW.

(2)(a) The department may expend funds defined in subsection (1) of this section in any manner that will effectively accomplish the outcome measures defined in RCW 74.08A.410 with the following exception: Beginning with the 2007-2009 biennium, funds that constitute the working connections child care program, child care quality programs, and child care licensing functions.

(b) Beginning in the 2007-2009 fiscal biennium, the legislature shall appropriate and the departments of early learning and social and health services shall expend funds defined in subsection (1) of this section that constitute the working connections child care program, child care quality programs, and child care licensing functions in a manner that is consistent with the outcome measures defined in RCW 74.08A.410.

(c) No more than fifteen percent of the amount provided in subsection (1) of this section may be spent for administrative purposes. For the purpose of this subsection, "administrative purposes" does not include expenditures for information technology and computerization needed for tracking and monitoring required by P.L. 104-193. The department shall not increase grant levels to recipients of the program authorized in RCW 74.08A.200 through 74.08A.330 and 43.330.145 and chapter 74.12 RCW, except as authorized in the omnibus appropriations act for the 2007-2009 biennium.

(3) The department shall implement strategies that accomplish the outcome measures identified in RCW 74.08A.410 that are within the funding constraints in this section. Specifically, the department shall implement strategies that will cause the number of cases in the program authorized in RCW 74.08A.200 through 74.08A.330 and 43.330.145 and chapter 74.12 RCW to decrease by at least fifteen percent during the 1997-99 biennium and by at least five percent in the subsequent biennium. The department may transfer appropriation authority between funding categories within the economic services program in order to carry out the requirements of this subsection.

(4) The department shall monitor expenditures against the appropriation levels provided for in subsection (1) of this section. The department shall quarterly make a determination as to whether expenditure levels will exceed available funding and communicate its finding to the legislature. If the determination indicates that expenditures will exceed funding at the end of the fiscal year, the department shall take all necessary actions to ensure that all services provided under this chapter shall be made available only to the extent of the availability and level of appropriation made by the legislature.

Sec. 923. RCW 77.32.010 and 2006 c 57 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, a recreational license issued by the director is required to hunt for or take wild animals or wild birds, fish for, take, or harvest fish, shellfish, and seaweed. A recreational fishing or shellfish license is not required for carp, smelt, and crawfish, and a hunting license is not required for bullfrogs.

(2) A permit issued by the department is required to park a motor vehicle upon improved department access facilities.

(3) During the 2007-09 fiscal biennium to enable the implementation of the pilot project established in section 307 of this act, a fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirements in subsection (1) of this section on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods, and a Colville Tribes tribal member identification card shall satisfy the license requirements in subsection (1) of this section on all waters of Lake Rufus Woods.

Sec. 924. RCW 83.100.230 and 2005 c 514 s 1101 are each amended to read as follows:

The education legacy trust account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for deposit into the student achievement fund and for expanding access to higher education through funding for new enrollments and financial aid, and other educational improvement efforts. During the 2007-2009

fiscal biennium, moneys in the account may also be transferred into the state general fund.

Sec. 925. RCW 90.48.390 and 1991 sp.s. c 13 s 84 are each amended to read as follows:

The coastal protection fund is established to be used by the department as a revolving fund for carrying out the purposes of restoration of natural resources under this chapter and chapter 90.56 RCW. To this fund there shall be credited penalties, fees, damages, charges received pursuant to the provisions of this chapter and chapter 90.56 RCW, compensation for damages received under this chapter and chapter 90.56 RCW, and an amount equivalent to one cent per gallon from each marine use refund claim under RCW 82.36.330.

Moneys in the fund not needed currently to meet the obligations of the department in the exercise of its powers, duties, and functions under RCW 90.48.142, 90.48.366, 90.48.367, and 90.48.368 shall be deposited with the state treasurer to the credit of the fund. During the 2007-2009 fiscal biennium, the coastal protection fund may also be used for a standby rescue tug at Neah Bay.

Sec. 926. RCW 90.71.310 and 2007 c 341 s 13 are each amended to read as follows:

(1) The council shall develop a science-based action agenda that leads to the recovery of Puget Sound by 2020 and achievement of the goals and objectives established in RCW 90.71.300. The action agenda shall:

(a) Address all geographic areas of Puget Sound including upland areas and tributary rivers and streams that affect Puget Sound;

(b) Describe the problems affecting Puget Sound's health using supporting scientific data, and provide a summary of the historical environmental health conditions of Puget Sound so as to determine past levels of pollution and restorative actions that have established the current health conditions of Puget Sound;

(c) Meet the goals and objectives described in RCW 90.71.300, including measurable outcomes for each goal and objective specifically describing what will be achieved, how it will be quantified, and how progress towards outcomes will be measured. The action agenda shall include near-term and long-term benchmarks designed to ensure continuous progress needed to reach the goals, objectives, and designated outcomes by 2020. The council shall consult with the panel in developing these elements of the plan;

(d) Identify and prioritize the strategies and actions necessary to restore and protect Puget Sound and to achieve the goals and objectives described in RCW 90.71.300;

(e) Identify the agency, entity, or person responsible for completing the necessary strategies and actions, and potential sources of funding;

(f) Include prioritized actions identified through the assembled proposals from each of the seven action areas and the identification and assessment of ecosystem scale programs as provided in RCW 90.71.260;

(g) Include specific actions to address aquatic rehabilitation zone one, as defined in RCW 90.88.010;

(h) Incorporate any additional goals adopted by the council; and

(i) Incorporate appropriate actions to carry out the biennial science work plan created in RCW 90.71.290.

(2) In developing the action agenda and any subsequent revisions, the council shall, when appropriate, incorporate the following:

(a) Water quality, water quantity, sediment quality, watershed, marine resource, and habitat restoration plans created by governmental agencies, watershed groups, and marine and shoreline groups. The council shall consult with the board in incorporating these plans;

(b) Recovery plans for salmon, orca, and other species in Puget Sound listed under the federal endangered species act;

(c) Existing plans and agreements signed by the governor, the commissioner of public lands, other state officials, or by federal agencies;

(d) Appropriate portions of the Puget Sound water quality management plan existing on July 1, 2007.

(3) Until the action agenda is adopted, the existing Puget Sound management plan and the 2007-09 Puget Sound biennial plan shall remain in effect. The existing Puget Sound management plan shall also continue to serve as the comprehensive conservation and management plan for the purposes of the national estuary program described in section 320 of the federal clean water act, until replaced by the action agenda and approved by the United States environmental protection agency as the new comprehensive conservation and management plan.

(4) The council shall adopt the action agenda by ((~~September~~)) December 1, 2008. The council shall revise the action agenda as needed, and revise the implementation strategies every two years using an adaptive management process informed by tracking actions and monitoring results in Puget Sound. In revising the action agenda and the implementation strategies, the council shall consult the panel and the board and provide opportunity for public review and comment. Biennial updates shall:

(a) Contain a detailed description of prioritized actions necessary in the biennium to achieve the goals, objectives, outcomes, and benchmarks of progress identified in the action agenda;

(b) Identify the agency, entity, or person responsible for completing the necessary action; and

(c) Establish biennial benchmarks for near-term actions.

(5) The action agenda shall be organized and maintained in a single document to facilitate public accessibility to the plan.

Sec. 927. RCW 90.71.370 and 2007 c 341 s 19 are each amended to read as follows:

(1) By December 1, 2008, and by September 1st of each even-numbered year beginning in ((~~2008~~)) 2010, the council shall provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations shall:

(a) Identify the funding needed by action agenda element;

(b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and

(c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council shall include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound protection and recovery. In preparing the science panel staffing proposal, the council shall consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council shall produce a state of the Sound report that includes, at a minimum:

(a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;

(b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;

(c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;

(d) A review of citizen concerns provided to the partnership and the disposition of those concerns;

(e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and

(f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council shall review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council shall provide initial recommendations regarding program changes to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council shall provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection shall be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) The water quality account, chapter 70.146 RCW;

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The state toxics control account and local toxics control account and clean-up program, chapter 70.105D RCW;

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review shall include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

NEW SECTION. **Sec. 928.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 929.** 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.

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Passed by the House March 13, 2008.
Passed by the Senate March 13, 2008.
Approved by the Governor April 1, 2008, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 2, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 103(14); 113(2); 114(2); 123(6); 123(12); 125(41); 125(62); 125(76); 125(78); 125(84); 127(11); 127(12); 147(5); 202(26); 202(27); 202(33); 202(34); 202(36); 203(9); 204(1)(u); 204(3)(b); 204(4)(b); 206(21); 209(29); 211, page 135, lines 30-35; 212(10); 216, page 143, lines 20-27; 218(19); 218(20); 222(37); 222(46); 222(51); 222(53); 224(1)(h); 224(1)(i); 302(27); 302(32); 302(33); 302(37); 302(39); 303(18); 307(31); 307(32); 307(44); 308(27); 311(5); 501(2)(a)(vi); 501(2)(a)(x); 501(2)(c)(xv); 501(2)(c)(xvi); 501(2)(c)(xviii); 507(4); 507(5); 507(6); 511(46); 511(48); 601(2); 605(14); 605(23); 605(24); 606(23); 606(24); 606(26); 606(27); 607(19); 607(22); 607(23); 608(7); 609(8); 610(13); 610(18); 611(9); 611(10); 612(8); 612(9); 613(9); and 906, Engrossed Substitute House Bill 2687 entitled:

"AN ACT Relating to fiscal matters."

I am vetoing the following sections because I disagree with the overall policy or direction, or for technical reasons that include alignment with vetoed bills, or bills that did not pass, drafting errors, and conflicts with existing statutes.

Section 114(2), page 16, Office of the Governor, Implementation of SB 6313 (disability history)
Funds were added to implement Senate Bill 6313, but the bill does not add duties to the Office of the Governor.

Section 123(12), pages 26-27, Attorney General, SSB 6385 (real property)
This proviso funds implementation of Substitute Senate Bill 6385 pertaining to real property, and stipulates that the appropriation shall lapse if the bill is not enacted. The Legislature did not pass the bill.

Section 125(84), page 48, Department of Community, Trade and Economic Development, Implementation of ESSB 5959 (Transitional Housing)
The proviso provides funds to administer the Transitional Housing Operating and Rent program if certain sections of Engrossed Substitute Senate Bill 5959 are enacted. The referenced sections were not included in the final version of the bill.

Section 127(11), page 52, Office of Financial Management, Implementation of E2SHB 2631 (Office of Regulatory Assistance)
This proviso funds the implementation of Engrossed Second Substitute House Bill 2631. The Legislature did not pass the bill.

Section 127(12), page 52, Office of Financial Management, Tracking I-960 Costs
The proviso requires the Office of Financial Management (OFM) to track all expenditures and FTE utilization in state government related to the responsibilities of Initiative 960, and to report to the fiscal committees of the Legislature by November 1, 2008. Although OFM is tracking its own

expenditures, the majority of work in other agencies has already taken place so an additional expense of recreating records would be incurred throughout government.

Section 206(21), page 116, Department of Social and Health Services Aging and Adult Services, Long Term Care Worker Certification and Training
This proviso funds Engrossed Substitute House Bill 2693 relating to long-term care worker certification and training, and stipulates that the appropriation will lapse if the bill is not enacted. The Legislature did not pass the bill.

Section 211, page 135, lines 30-35, Department of Social and Health Service Special Commitment Center Program, Commitment Center Calls
This proviso funds implementation of Substitute House Bill 2756, pertaining to commitment center calls, and stipulates that the appropriation will lapse if the bill is not enacted. The Legislature did not pass the bill.

Section 216, page 143, lines 20-27, Board of Industrial Insurance Appeals, E2SHB 3139 (industrial insurance benefits on appeal)
The proviso funds the Board of Industrial Insurance Appeals to implement Engrossed Second Substitute House Bill 3139. However, the proviso requires the funds be used solely for the payment of benefits. The Board of Industrial Insurance Appeals adjudicates appeals but does not pay benefits, so it will be unable to use these funds to implement the bill.

Section 218(19), page 151, Department of Labor and Industries, ESSB 5831 (HVAC and refrigeration)
The proviso funds the Department of Labor and Industries to implement Engrossed Substitute Senate Bill 5831. However, the final version of the bill requires no additional money.

Section 218(20), page 151, Department of Labor and Industries, E2SHB 3139 (industrial insurance benefits on appeal)
The proviso funds the Department of Labor and Industries to implement Engrossed Second Substitute House Bill 3139. However, the funds are from the appropriated accident and medical aid accounts and the proviso requires the funds be used solely for the payment of benefits. The appropriated accident and medical aid accounts are the administrative accounts the Department uses for its industrial insurance operations and not for the payment of benefits. Benefits are paid from the non-appropriated portion of the accident and medical aid funds, so the department will be unable to use the funds provided to implement the bill.

Section 222(53), pages 165-166, Department of Health, Long Term Care Worker Certification and Training
This proviso funds Engrossed Substitute House Bill 2693, relating to long-term care worker certification and training, and stipulates that the appropriation will lapse if the bill is not enacted. The Legislature did not pass the bill.

Section 224(1)(h), pages 168-169, Department of Corrections Administration and Support Services, Advisory Committee
This proviso requires the Department of Corrections to establish the offenders in families advisory committee. The Department currently has voluntary family committees at each institution, making this requirement unnecessary.

Section 224(1)(i), pages 169-170, Department of Corrections Administration and Support Services, McNeil Island Corrections Center Closure Evaluation
This proviso requires the Department of Corrections to study the costs and benefits of closing McNeil Island Corrections Complex, but no funding is provided.

Section 302(32), page 189, Department of Ecology, E2SHB 3186, Beach Management Districts
I have vetoed the portion of Engrossed Second Substitute House Bill 3186 that places new requirements on state agencies for technical assistance, coordination, monitoring and assessment. Therefore, the funds will not be needed.

Section 302(33), page 189, Department of Ecology, 2SHB 3227, Hood Canal Water Quality
This proviso funds implementation of Second Substitute House Bill 3227, pertaining to Hood Canal Water Quality. The Legislature did not pass this bill.

Section 302(37), page 190, Department of Ecology, E2SSB 6502, Release of Mercury

This proviso funds implementation of Engrossed Second Substitute Senate Bill 6502 pertaining to Release of Mercury, and stipulates that the appropriation will lapse if the bill is not enacted. The Legislature did not pass the bill.

Section 302(39), page 190, Department of Ecology, ESSB 6308, Climate Change Research, Preparation, and Adaptation

This proviso funds implementation of Engrossed Substitute Senate Bill 6308, pertaining to Climate Change Research, Preparation, and Adaptation, and stipulates that the appropriation will lapse if the bill is not enacted. The Legislature did not pass the bill.

Section 307(31), pages 204-205, Department of Fish and Wildlife, E2SHB 3186, Beach Management Districts

I have vetoed the portion of Engrossed Second Substitute House Bill 3186 that places new requirements on state agencies for technical assistance, coordination, monitoring and assessment. Therefore, the funding is not needed.

Section 307(32), page 205, Department of Fish and Wildlife, Damage to Livestock by Wildlife

This proviso requires the Department of Fish and Wildlife to compensate commercial livestock owners for damage caused by wildlife. While I appreciate the financial needs of livestock owners, the Department has no statutory authority to provide this type of compensation.

Section 307(44), pages 206-207, Department of Fish and Wildlife, SSB 6307, Puget Sound Marine Managed Areas

This proviso funds implementation of Substitute Senate Bill 6307 pertaining to Puget Sound Marine Managed Areas. It stipulates that the appropriation will lapse if the bill is not enacted. The Legislature did not pass the bill.

Section 308(27), page 213, Department of Natural Resources, E2SHB 3186, Beach Management Districts

I have vetoed the portion of Engrossed Second Substitute House Bill 3186 that places new requirements on state agencies for technical assistance, coordination, monitoring and assessment so the funding is not needed.

Section 311(5), page 218, Puget Sound Partnership, SSB 6307, Puget Sound Marine Managed Areas

This proviso funds implementation of Substitute Senate Bill 6307 pertaining to Puget Sound Marine Managed Areas. It stipulates that the appropriation will lapse if the bill is not enacted. The Legislature did not pass the bill.

Section 501(2)(a)(x), pages 235-236, Superintendent of Public Instruction, E2SHB 2712 (Criminal Street Gangs)

Engrossed Second Substitute House Bill 2712 pertaining to criminal street gangs does not include provisions requiring the Office of the Superintendent of Public Instruction (OSPI) to create a brochure based on the recommendations of the task force on gangs. Therefore, OSPI does not need $180,000 for development, translation, and printing of brochures.

Section 501(2)(c)(xvi), pages 239-240, Superintendent of Public Instruction, PSAT

This appropriation provides reimbursement to school districts for costs associated with offering the Preliminary Scholastic Aptitude Test (PSAT) to tenth grade students. While this test may provide students some information about their readiness for the SAT and college preparedness, it is a new approach that has not been tested in Washington. There are other efforts already under way, such as the mathematics college readiness assessment, which has shown promising results in Washington schools to influence students' course-taking decisions and preparedness for college-level work.

Section 501(2)(c)(xviii), page 240, Superintendent of Public Instruction, Dual Credit Workgroup

This proviso adds funding for the Office of Superintendent of Public Instruction (OSPI) to convene a multi-agency workgroup regarding statewide coordination of dual credit programs, such as Running Start and Advanced Placement. Because this is a fundamental responsibility of all agencies involved in dual credit programming, they do not require additional funding to conduct this planning and analysis. I am asking that OSPI, the State Board for Community and Technical Colleges, representatives from public four-year institutions of higher education, the Workforce Training and Education Coordinating Board, the Council of Presidents, and the Higher Education Coordinating

Board work together, with input from local programs, to develop a statewide coordinated plan for dual credit programs.

Section 507(4), page 264, Superintendent of Public Instruction—Educational Service Districts, Reading Improvement Specialist, pursuant to E2SSB 6673 (Student Learning Opportunities)
This proviso adds $876,000 for reading improvement specialists at the Educational Service Districts. Reading was an early focus for school improvement efforts. A number of programs and services continue to focus on improving reading achievement, such as Reading First federal grants; Reading Corps; and district-focused activities with federal Title I, state Learning Assistance Program, and other sources. The Office of the Superintendent of Public Instruction also has used federal Title II funds to provide targeted professional development in reading instruction for secondary schools.

Section 507(5), page 264, Superintendent of Public Instruction—Educational Service Districts, Outreach to Community-Based Organizations, pursuant to E2SSB 6673 (Student Learning Opportunities)
This proviso appropriates funds to Educational Service Districts to develop and provide a program of outreach to community-based programs and organizations that are serving non-English speaking segments of the population, as well as those programs that target groups of students that are struggling academically. This idea should be considered within the context of the studies, funded in other parts of this budget and due this December, that will analyze and make recommendations on how to close the achievement gap.

Section 511(46), page 285, Superintendent of Public Instruction—Education Reform, Career Opportunities pursuant to E2SSB 6673 (student learning opportunities)
This proviso appropriates funding for a grant program to school districts to provide summer school funding for middle and high school students to explore career opportunities in math, science, and technology. Similar programs are already offered by school districts, skills centers and private organizations. One exciting opportunity initiated in 2006 is the Washington Aerospace Scholars, a statewide partnership through the Washington Aerospace Scholars Foundation with The Museum of Flight, schools, and business partners. The program gives high school students the opportunity to participate in hands-on engineering activities, tour facilities at Boeing, the University of Washington, Microsoft and Battelle, receive mentoring from astronauts, pilots, engineers and scientists, and conduct a project on Mars exploration.

Section 601(2), pages 296-297, Higher Education, Salary Increases at Institutions of Higher Education
There is a drafting error in this section, which could result in a policy change the Legislature did not consider.

Child Care for Students
Section 605(14), page 309, State Board for Community and Technical Colleges, and Section 613(9), page 343, Higher Education Coordinating Board
Substitute House Bill 2582 takes the first step toward the goal of expanding child care by laying out a new matching grant procedure and allowing student governments at each college to raise funds through private donations. However, expanding the combined two- and four-year programs from $100,000 per year to $1.1 million per year should be evaluated in the biennial budget process when it can be reviewed in context with existing child care programs.

Section 605(23), page 311, State Board for Community and Technical Colleges, Adult Literacy Education
This proviso directs the State Board for Community and Technical Colleges to convene a one-day summit on adult literacy and to conduct a media campaign to inform citizens about the availability of adult literacy programs and services. The Board should consider making adult literacy a feature of its media campaigns and convening a summit to inform the public on the status of its adult literacy programs within existing appropriations.

Mental Health Staffing
Section 606(23), page 319, University of Washington
Section 607(19), page 324, Washington State University
Section 608(7), page 327, Eastern Washington University
Section 609(8), page 330, Central Washington University
Section 610(13), page 333, The Evergreen State College
Section 611(10), page 338, Western Washington University

Last year, I asked each higher education institution what campus safety issues were most important to them. We learned from national experts' recommendations following the Virginia Tech shooting. We learned more following the tragedy at Northern Illinois. My budget proposal funded critical equipment and technology to warn students at all campuses.

Instead, these provisos fund one mental health counselor for each institution, regardless of size. The community and technical colleges, home to the majority of our higher education enrollment, is excluded entirely. If an institution determines that a mental health counselor is the best investment for the institution, it can direct its own resources to this program. As part of their work pursuant to Second Substitute House Bill 2507 and Substitute Senate Bill 6328, I ask each four-year institution and the State Board for Community and Technical Colleges to develop prioritized lists of possible investments and any legislation required to make student safety a priority in the 2009 Session.

Section 606(24), page 319, University of Washington, Biota Impacts from Low Dissolved Oxygen in Hood Canal

Since 2003, Congressman Norm Dicks has sounded the alarm about the health of Hood Canal, securing federal funding to study the low dissolved oxygen content in Hood Canal. This allowed the University of Washington (UW) to create the Hood Canal Dissolved Oxygen program, which investigates the causes of the problem and, along with the Puget Sound Partnership, attempts to find a solution. Given the extensive work under way by the Partnership and the UW, we need to ensure that all funding for this problem works together, and that we do not duplicate efforts.

Section 610(18), page 334, The Evergreen State College, Examine Data Gathered Through Sex Offender Address Verification Activities

The Washington Association of Sheriffs and Police Chiefs (WASPC) is overseeing a program to verify the address and residency of all registered sex offenders and kidnapping offenders. As part of this program, WASPC will collect performance data from all participating jurisdictions to evaluate the efficiency and effectiveness of the address and residency verification program. In addition, the Institute for Public Policy at The Evergreen State College was tasked with assessing the prevalence of sex offenders who register as homeless as a means to avoid disclosing their residence. This analysis can be completed by WASPC in its administration of the program and assessment of its effectiveness.

Section 612(8), page 340, Higher Education Coordinating Board, E2SHB 2783 (Education Transfer Articulation)

Engrossed Second Substitute House Bill 2783 creates work groups and outlines tasks to improve student credit transferability among community and technical colleges and four-year institutions of higher education. While this focuses on the right problems, efforts already exist at the Higher Education Coordinating Board (HECB) and State Board for Community and Technical Colleges (SBCTC) in this area. I am asking the agencies to continue their work to develop ways to inform students, in clear language, about the transfer process and to address barriers to student transfers, especially for those transferring from technical programs or career schools. I also ask the HECB, SBCTC, and Washington Student Lobby to present proposals on transfer issues to the P-20 Council. Finally, I also want the HECB and SBCTC to refine and combine their plans for a web-based advising system.

Section 612(9), page 340, Higher Education Coordinating Board, Prior Learning Work Group

A barrier to the smooth transition from work to post-secondary education and training is how institutions evaluate and give credit for prior learning. The Higher Education Coordinating Board, State Board for Community and Technical Colleges, and Workforce Training and Education Coordinating Board have been working on this issue for years, and the State Board's prior learning assessment guidelines for colleges are an outgrowth of that work. I want these three agencies to continue working to ensure that prior learning is evaluated and utilized effectively at each campus, in each sector within existing resources.

Section 906, page 376, Washington State Gambling Commission, Gambling Revolving Fund

This section directs both the Gambling Commission and Office of Financial Management to address cash flow issues pursuant to RCW 43.88.050. However, the correct statutory reference is 43.88.260(2)(b).

Thoughtful choices and fiscal discipline are the keys to delivering what is most important to Washington's citizens. Saving money now will help Washington's students, families and seniors count on these investments being there for them in the future. A top priority for this budget must be

maintaining a significant reserve. While the budget passed by the Legislature already left a notably high reserve of $835 million, I have identified a number of items that, although valuable, are not essential to do right now. These are instances where there are additions to existing programs or new programs that are started that we may not be able to sustain. Vetoing these items now will help build an even bigger reserve, and has an important impact on future budgets. That is why I am vetoing:

Section 103(14), pages 6-7, Joint Legislative and Audit Review Committee, Cost-Benefit Analysis of a State-Supported Recreational Facility.

Section 113(2), page 15, Office of Public Defense, Parents Representation Program Increase.

Section 123(6), page 26, Attorney General, Implementation of 2SHB 2479 (wireless number disclosure).

Section 125(41), page 40, Department of Community, Trade, and Economic Development, Additional Funds for Poulsbo Marine Science Center.

Section 125(62), page 44, Department of Community, Trade, and Economic Development, Airway Heights Wastewater Treatment Plant.

Section 125(76), page 47, Department of Community, Trade, and Economic Development, Study of Non-Foodstuff Products for Low Income Residents.

Section 125(78), page 47, Department of Community, Trade, and Economic Development, Regional Visitor/Media Pavilion at the 2010 Olympic Games.

Section 147(5), page 72, Military Department, Additional Funds for Washington Information Network 2-1-1.

Section 202(26), pages 83-84, Department of Social and Health Services - Children and Family Services Program, Clark County Pilot for Reactive Attachment Disorder.

Section 202(27), page 84, Department of Social and Health Services, Children and Family Services, Additional Home Support Specialists.

Section 202(33), page 85, Department of Social and Health Services, Children and Family Services, Implementation of SHB 2679 (students in foster care).

Section 202(34), page 85, Department of Social and Health Services, Children and Family Services, Additional Contracted Educational Advocacy Coordinators.

Section 202(36), page 85, Department of Social and Health Services, Children and Family Services, Multidimensional Treatment Foster Care Program.

Section 203(9), pages 89-90, Department of Social and Health Services Juvenile Rehabilitation Program, Family Incentive Pilot Program.

Section 204(1)(u), page 97, Department of Social and Health Services, Mental Health Program, Community Services/Regional Support Networks, Grants for Clubhouses.

Section 204(3)(b), page 100, Department of Social and Health Services, Mental Health Program, Special Projects, Study of Concentrations of People with Severe and Persistent Mental Illness in Counties Proximate to State Psychiatric Hospitals.

Section 204(4)(b), page 101, Department of Social and Health Services, Mental Health Program, Program Support, Implementation of Recommendations from the 2006 Joint Stakeholder Paperwork Reduction Project.

Section 209(29), page 134, Department of Social and Health Services, Medical Assistance Program, Additional Lead Blood Level Assessments.

Section 212(10), page 138, Department of Social and Health Services, Administration and Supporting Services, Family Policy Council New Network in Skagit County.

Section 222(37), page 163, Department of Health, Newborn Home Visits in Kitsap County.

Section 222(46), page 165, Department of Health, Outbreak Disease Information Network.

Section 222(51), page 165, Department of Health, Additional Methicillin Resistant Staphylococcus Aureus Surveillance and Testing.

Section 302(27), page 187, Department of Ecology, Groundwater Data Gap Analysis.

Section 303(18), page 194, State Parks and Recreation, Grants to the Mount Tahoma Trails Association.

Section 501(2)(a)(vi), pages 234-235, Superintendent of Public Instruction—Statewide Programs, Additional funding for Nonviolence and Leadership Training Program.

Section 501(2)(c)(xv), page 239, Superintendent of Public Instruction—Statewide Programs, Grants and Allocations, New Spanish and Chinese Language Instruction Pilot Programs.

Section 507(6), page 264, Superintendent of Public Instruction—Educational Service Districts, SHB 2679 (educational outcomes for students in foster care).

Section 511(48), page 286, Superintendent of Public Instruction—Education Reform, New Peninsula School District Chinese Exchange Program.

Section 605(24), page 311, State Board for Community and Technical Colleges, Increased Online Library Resources.

Section 606(26), page 319, University of Washington, Undergraduate or Graduate Fellows in Overseas International Trade Offices.

Section 606(27), page 319, University of Washington, Additional Funding for State Climatologist.

Section 607(22), page 325, Washington State University, Additional funding for Renton Small Business Development Center.

Section 607(23), page 325, Washington State University, Urban Integrated Pest Management.

Section 611(9), page 338, Western Washington University, Expand Mentoring Program for Middle and High School Students.

For these reasons, I have vetoed Sections 103(14); 113(2); 114(2); 123(6); 123(12); 125(41); 125(62); 125(76); 125(78); 125(84); 127(11); 127(12); 147(5); 202(26); 202(27); 202(33); 202(34); 202(36); 203(9); 204(1)(u); 204(3)(b); 204(4)(b); 206(21); 209(29); 211, page 135, lines 30-35; 212(10); 216, page 143, lines 20-27; 218(19); 218(20); 222(37); 222(46); 222(51); 222(53); 224(1)(h); 224(1)(i); 302(27); 302(32); 302(33); 302(37); 302(39); 303(18); 307(31); 307(32); 307(44); 308(27); 311(5); 501(2)(a)(vi); 501(2)(a)(x); 501(2)(c)(xv); 501(2)(c)(xvi); 501(2)(c)(xviii); 507(4); 507(5); 507(6); 511(46); 511(48); 601(2); 605(14); 605(23); 605(24); 606(23); 606(24); 606(26); 606(27); 607(19); 607(22); 607(23); 608(7); 609(8); 610(13); 610(18); 611(9); 611(10); 612(8); 612(9); 613(9); and 906 of Engrossed Substitute House Bill 2687.

With the exception of Sections 103(14); 113(2); 114(2); 123(6); 123(12); 125(41); 125(62); 125(76); 125(78); 125(84); 127(11); 127(12); 147(5); 202(26); 202(27); 202(33); 202(34); 202(36); 203(9); 204(1)(u); 204(3)(b); 204(4)(b); 206(21); 209(29); 211, page 135, lines 30-35; 212(10); 216, page 143, lines 20-27; 218(19); 218(20); 222(37); 222(46); 222(51); 222(53); 224(1)(h); 224(1)(i); 302(27); 302(32); 302(33); 302(37); 302(39); 303(18); 307(31); 307(32); 307(44); 308(27); 311(5); 501(2)(a)(vi); 501(2)(a)(x); 501(2)(c)(xv); 501(2)(c)(xvi); 501(2)(c)(xviii); 507(4); 507(5); 507(6); 511(46); 511(48); 601(2); 605(14); 605(23); 605(24); 606(23); 606(24); 606(26); 606(27); 607(19); 607(22); 607(23); 608(7); 609(8); 610(13); 610(18); 611(9); 611(10); 612(8); 612(9); 613(9); and 906, Engrossed Substitute House Bill 2687 is approved."

AUTHENTICATION

I, K. Kyle Thiessen, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2008 session (60th Legislature), chapters 217 through 329, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 24th day of April, 2008.

K. KYLE THIESSEN
Code Reviser

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LEGEND

ADD	=	Add a new section
AMD	=	Amend existing law
DECD	=	Decodify existing law
RECD	=	Recodify existing law
REEN	=	Reenact existing law
REMD	=	Reenact and amend
REP	=	Repeal existing law

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2.56	ADD	148	1
2.56	ADD	279	1,2
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2.56.030	AMD	291	4
2.70.005	AMD	313	2
2.70.010	AMD	313	3
2.70.020	AMD	313	4
2.70.030	AMD	313	5
3.30.010	AMD	13	1
3.34.010	AMD	63	1
3.34.110	AMD	227	7
3.42.020	AMD	227	6
3.42.030	REP	227	12
3.46	ADD	227	11
3.46.010	REP	227	12
3.46.020	REP	227	12
3.46.030	REP	227	12
3.46.040	REP	227	12
3.46.050	REP	227	12
3.46.060	REP	227	12
3.46.063	REP	227	12
3.46.067	REP	227	12
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3.46.090	REP	227	12
3.46.100	REP	227	12
3.46.110	REP	227	12
3.46.120	REP	227	12
3.46.130	REP	227	12
3.46.140	REP	227	12
3.46.145	REP	227	12
3.46.150	REP	227	12
3.46.160	REP	227	12
3.50	ADD	227	4,9
3.50.003	AMD	227	3
3.50.007	REP	227	12
3.50.020	AMD	227	5
3.50.075	AMD	227	8
3.66.020	AMD	227	1
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4.08.040	AMD	6	408
4.20.046	AMD	6	409
4.22.020	AMD	6	401
4.24	ADD	276	307
4.24.550	REMD	98	1
4.24.556	AMD	231	39
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5.66.010	AMD	6	403
6.13.020	AMD	6	633
6.13.060	AMD	6	634
6.13.080	AMD	6	635
6.13.180	AMD	6	636
6.13.210	AMD	6	637
6.13.220	AMD	6	638
6.13.230	AMD	6	639
7.36.020	AMD	6	801
7.69.020	AMD	6	404
7.69.030	AMD	286	16
7.69B.010	AMD	6	405
9	ADD	231	51-54
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9	ADD	276	401
9.35	ADD	207	2
9.35.001	AMD	207	3
9.35.020	AMD	207	4
9.41.300	REMD	33	1
9.46.231	AMD	6	629
9.94A	ADD	219	2
9.94A	ADD	231	7-19
9.94A	ADD	249	1-8
9.94A	ADD	276	302
9.94A.030	REMD	7	1
9.94A.030	REMD	230	2
9.94A.030	REMD	231	23
9.94A.030	REMD	276	309
9.94A.500	AMD	231	2
9.94A.501	AMD	231	24
9.94A.505	AMD	231	25
9.94A.515	REMD	38	1
9.94A.515	REMD	108	23
9.94A.525	REMD	231	3
9.94A.530	AMD	231	4
9.94A.533	AMD	219	3
9.94A.533	AMD	276	301
9.94A.535	AMD	233	9
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9.94A.610	RECD	231	56
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9.94A.612	RECD	231	56
9.94A.614	RECD	231	56
9.94A.616	RECD	231	56
9.94A.618	RECD	231	56
9.94A.620	RECD	231	56
9.94A.625	AMD	231	28
9.94A.628	RECD	231	56
9.94A.634	RECD	231	56
9.94A.650	AMD	231	29
9.94A.660	REMD	231	30
9.94A.670	AMD	231	31
9.94A.690	AMD	231	32
9.94A.700	RECD	231	56
9.94A.705	RECD	231	56
9.94A.710	RECD	231	56
9.94A.712	REMD	231	33
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9.94A.715	REP	231	57
9.94A.715	REMD	276	305
9.94A.720	REP	231	57
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9.94A.737	AMD	231	20
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9.94A.760	AMD	231	35
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9.94A.800	REP	231	57
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9.95.017	AMD	231	40
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9.95.440	AMD	231	45
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9A	ADD	200	1-4
9A.44.130	REMD	230	1
9A.48	ADD	276	306
9A.48.120	AMD	206	1
9A.76	ADD	91	1
9A.82.010	REMD	108	24
9A.83.030	AMD	6	630
10	ADD	21	1-7
10	ADD	224	1,2
10.01.160	AMD	318	2
10.05.010	AMD	282	15
10.05.020	AMD	282	16
10.05.090	AMD	282	17
10.05.160	AMD	282	19
10.22.010	AMD	276	308
10.58	ADD	90	2
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10.77.092	AMD	213	2
10.77.097	AMD	213	3
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10.77.800	REP	213	14
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11.02.100	AMD	6	903
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11.07.010	REMD	6	906
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11.28.030	AMD	6	913
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11.54.010	AMD	6	916
11.54.020	AMD	6	917
11.54.030	AMD	6	918
11.54.040	AMD	6	919
11.54.050	AMD	6	920
11.54.070	AMD	6	921
11.62.005	AMD	6	922
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11.62.030	AMD	6	924
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11.80.010	AMD	6	932
11.80.050	AMD	6	933
11.80.130	AMD	6	926
11.84.030	AMD	6	624
11.88.010	AMD	6	802
11.88.040	AMD	6	803
11.88.090	AMD	6	804
11.88.125	AMD	6	805
11.92.140	AMD	6	807
11.94.090	AMD	6	808

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11.96A.120	AMD	6	928
11.100.025	AMD	6	929
11.114.010	AMD	6	934
12.40.010	AMD	227	2
13.34	ADD	259	1
13.34.065	AMD	267	2
13.34.105	AMD	267	13
13.34.136	AMD	152	2
13.34.136	AMD	267	3
13.34.145	AMD	152	3
13.34.215	AMD	267	1
13.40.0357	AMD	158	1
13.40.0357	AMD	230	3
13.50.050	AMD	221	1
15.24	ADD	11	3
15.24.035	AMD	11	1
15.24.040	AMD	11	2
15.44	ADD	12	5
15.44.020	AMD	12	1
15.44.021	AMD	12	2
15.44.030	AMD	12	3
15.44.032	AMD	12	4
15.54.325	REMD	292	1
15.54.340	AMD	292	2
15.54.362	AMD	292	3
15.54.433	AMD	292	4
15.58	ADD	119	23
15.58.070	AMD	285	15
15.58.180	AMD	285	16
15.58.200	AMD	285	17
15.58.205	AMD	285	18
15.58.210	AMD	285	19
15.58.220	AMD	285	20
15.64	ADD	215	2
16.36	ADD	285	28
17.21.070	AMD	285	21
17.21.110	AMD	285	22
17.21.122	AMD	285	23
17.21.126	AMD	285	24
17.21.129	AMD	285	25
17.21.220	AMD	285	26
18	ADD	119	1-20
18.04.025	AMD	16	2
18.04.195	AMD	16	3
18.04.205	AMD	16	4
18.04.345	AMD	16	5
18.04.350	AMD	16	6
18.16.020	AMD	20	1
18.16.030	AMD	20	2
18.16.050	AMD	20	3
18.16.060	AMD	20	4
18.16.100	AMD	20	5
18.16.175	REMD	20	6
18.16.180	AMD	20	7
18.16.280	AMD	20	8
18.19	ADD	135	3,4,9
			19
18.19.020	AMD	135	1
18.19.030	AMD	135	2
18.19.040	AMD	135	5
18.19.050	AMD	135	6
18.19.060	AMD	135	7
18.19.090	AMD	135	8
18.19.100	AMD	135	10
18.20	ADD	251	1
18.20.350	AMD	146	3
18.25	ADD	134	31
18.27	ADD	120	4,12
18.27.030	AMD	120	1
18.27.100	AMD	120	2
18.32	ADD	134	32
18.32	ADD	147	2
18.32.215	AMD	147	1
18.44	ADD	110	11
18.71	ADD	134	29
18.71.0191	AMD	134	33
18.79	ADD	134	30
18.79.130	AMD	134	34
18.79.255	REP	154	1
18.79.260	AMD	146	11
18.84	ADD	246	6
18.84	ADD	285	14
18.84.010	AMD	246	1
18.84.020	AMD	246	2
18.84.030	AMD	246	3
18.84.040	AMD	246	4
18.84.080	AMD	246	5
18.85	ADD	23	49
18.85	ADD	110	10
18.85	ADD	119	24
18.85.010	AMD	23	1
18.85.010	RECD	23	49
18.85.030	AMD	23	2
18.85.030	RECD	23	49
18.85.040	AMD	23	3
18.85.040	RECD	23	49
18.85.050	AMD	23	4

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18.85.050	RECD	23	49
18.85.055	AMD	23	5
18.85.055	RECD	23	49
18.85.060	AMD	23	6
18.85.060	RECD	23	49
18.85.071	AMD	23	7
18.85.071	RECD	23	49
18.85.080	AMD	23	8
18.85.080	RECD	23	49
18.85.085	AMD	23	9
18.85.085	RECD	23	49
18.85.090	AMD	23	11
18.85.090	RECD	23	49
18.85.095	REP	23	50
18.85.097	AMD	23	14
18.85.097	RECD	23	49
18.85.100	AMD	23	15
18.85.100	RECD	23	49
18.85.110	AMD	23	16
18.85.110	RECD	23	49
18.85.120	AMD	23	17
18.85.120	RECD	23	49
18.85.130	AMD	23	18
18.85.130	RECD	23	49
18.85.140	AMD	23	19
18.85.140	RECD	23	49
18.85.150	REP	23	50
18.85.155	AMD	23	20
18.85.155	RECD	23	49
18.85.165	AMD	23	22
18.85.165	RECD	23	49
18.85.170	AMD	23	23
18.85.170	RECD	23	49
18.85.180	AMD	23	24
18.85.180	RECD	23	49
18.85.190	AMD	23	25
18.85.190	RECD	23	49
18.85.200	AMD	23	26
18.85.200	RECD	23	49
18.85.210	AMD	23	27
18.85.210	RECD	23	49
18.85.215	AMD	23	28
18.85.215	RECD	23	49
18.85.220	AMD	23	29
18.85.220	RECD	23	49
18.85.225	AMD	23	30
18.85.225	RECD	23	49
18.85.227	AMD	23	31
18.85.227	RECD	23	49
18.85.230	AMD	23	32
18.85.230	RECD	23	49
18.85.240	AMD	23	33
18.85.240	RECD	23	49
18.85.261	AMD	23	34
18.85.261	RECD	23	49
18.85.271	AMD	23	35
18.85.271	RECD	23	49
18.85.281	AMD	23	36
18.85.281	RECD	23	49
18.85.310	AMD	23	37
18.85.310	RECD	23	49
18.85.315	AMD	23	38
18.85.315	RECD	23	49
18.85.317	AMD	23	39
18.85.317	RECD	23	49
18.85.320	AMD	23	40
18.85.320	RECD	23	49
18.85.330	AMD	23	41
18.85.330	RECD	23	49
18.85.340	AMD	23	42
18.85.340	RECD	23	49
18.85.345	AMD	23	43
18.85.345	RECD	23	49
18.85.350	AMD	23	44
18.85.350	RECD	23	49
18.85.400	REP	23	50
18.85.450	REP	23	50
18.85.460	REP	23	50
18.85.470	REP	23	50
18.85.480	REP	23	50
18.85.520	AMD	23	45
18.85.520	RECD	23	49
18.85.530	AMD	23	46
18.85.530	RECD	23	49
18.85.540	RECD	23	49
18.85.550	RECD	23	49
18.85.560	AMD	23	47
18.85.560	RECD	23	49
18.88A.210	AMD	146	12
18.108	ADD	25	2
18.108.025	AMD	25	1
18.130	ADD	134	5-7
			12
			19,20
18.130	ADD	285	12,13
18.130.020	AMD	134	2
18.130.040	REMD	134	17,18
18.130.050	AMD	134	3
18.130.060	AMD	134	4
18.130.080	AMD	134	8

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RCW		CH.	SEC.
18.130.095	AMD	134	9
18.130.140	AMD	134	21
18.130.150	AMD	134	22
18.130.160	REMD	134	10
18.130.165	AMD	134	23
18.130.170	AMD	134	11
18.130.172	AMD	134	24
18.130.180	AMD	134	25
18.130.310	AMD	134	13
18.135	ADD	58	4
18.135.010	AMD	58	1
18.135.020	AMD	58	2
18.135.065	AMD	58	3
18.160.050	AMD	155	2
18.185	ADD	285	29
18.185.030	AMD	105	1
18.185.060	AMD	105	2
18.185.090	AMD	105	3
18.185.110	AMD	105	4
18.185.250	AMD	105	5
18.185.260	AMD	105	6
18.185.280	AMD	105	7
18.185.300	AMD	105	8
18.205	ADD	135	18
18.205.020	AMD	135	15
18.205.030	AMD	135	16
18.205.040	AMD	135	17
18.225	ADD	135	13
18.225.010	AMD	135	11
18.225.020	AMD	135	12
18.225.090	AMD	141	1
18.225.150	AMD	135	14
18.235.020	AMD	119	21
18.260.110	AMD	150	1
19	ADD	108	1-13
19	ADD	138	2,3
19	ADD	239	1-8
			10-12
19.28.101	AMD	181	201
19.48.130	RECD	199	1
19.86	ADD	74	7
19.94	ADD	68	1-3
19.118.110	AMD	93	1
19.146	ADD	108	14,20
19.146	ADD	109	1
19.146	ADD	110	12
19.146.005	AMD	108	21
19.146.010	AMD	78	3
19.150	ADD	61	2
19.150.010	AMD	61	1
19.150.020	AMD	61	3
19.150.901	AMD	61	4
19.150.902	AMD	61	5
19.250	ADD	271	2
			4-9
19.250.010	AMD	271	3
19.270.010	AMD	66	1
19.270.020	AMD	66	2
19.270.030	REP	66	6
19.270.040	AMD	66	3
19.270.050	AMD	66	4
19.270.060	AMD	66	5
19.290.010	AMD	233	1
19.290.020	AMD	233	2
19.290.030	AMD	233	3
19.290.040	AMD	233	4
19.290.050	AMD	233	5
19.290.060	AMD	233	6
19.290.070	AMD	233	7
19.290.090	AMD	233	8
19.295.010	AMD	161	1
20.01.125	AMD	26	1
23B.01.410	AMD	59	1
25.15.005	AMD	198	4
26.09.004	AMD	6	1003
26.09.010	AMD	6	1004
26.09.015	AMD	6	1043
26.09.015	REMD	6	1044
26.09.020	AMD	6	1005
26.09.030	AMD	6	1006
26.09.040	AMD	6	1007
26.09.050	AMD	6	1008
26.09.060	AMD	6	1009
26.09.070	AMD	6	1010
26.09.080	AMD	6	1011
26.09.090	AMD	6	1012
26.09.100	AMD	6	1013
26.09.110	AMD	6	1014
26.09.120	AMD	6	1015
26.09.150	REMD	6	1016
26.09.170	AMD	6	1017
26.09.194	AMD	6	1045
26.09.210	AMD	6	1018
26.09.255	AMD	6	1019
26.09.280	AMD	6	1020
26.09.290	AMD	6	1021
26.09.310	AMD	6	1022
26.09.405	AMD	259	2
26.10.050	AMD	6	1023
26.10.180	AMD	6	1024

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RCW		CH.	SEC.
26.12.172	AMD	6	1046
26.12.190	AMD	6	1025
26.12.260	AMD	6	1047
26.16.010	AMD	6	602
26.16.020	AMD	6	603
26.16.030	AMD	6	604
26.16.050	AMD	6	605
26.16.060	AMD	6	606
26.16.070	AMD	6	607
26.16.080	AMD	6	608
26.16.090	AMD	6	609
26.16.095	AMD	6	610
26.16.100	AMD	6	611
26.16.120	AMD	6	612
26.16.125	AMD	6	640
26.16.140	AMD	6	613
26.16.150	AMD	6	614
26.16.180	AMD	6	615
26.16.190	AMD	6	616
26.16.200	AMD	6	617
26.16.205	AMD	6	618
26.16.210	AMD	6	619
26.16.220	AMD	6	620
26.16.230	AMD	6	621
26.16.240	AMD	6	622
26.16.250	AMD	6	623
26.18	ADD	6	1048
26.18.010	AMD	6	1026
26.18.020	AMD	6	1027
26.18.030	AMD	6	1028
26.18.040	AMD	6	1029
26.18.050	AMD	6	1030
26.18.070	AMD	6	1031
26.18.090	AMD	6	1032
26.18.100	AMD	6	1033
26.18.110	AMD	6	1034
26.18.120	AMD	6	1035
26.18.140	AMD	6	1036
26.18.150	AMD	6	1037
26.19.071	AMD	6	1038
26.19.075	AMD	6	1039
26.20.035	AMD	6	1040
26.20.071	AMD	6	1041
26.20.080	AMD	6	1042
26.44	ADD	232	2
26.44.030	AMD	211	4
26.44.030	REMD	211	5
26.44.063	AMD	267	4
26.50.010	AMD	6	406
26.50.050	AMD	287	2
26.50.130	AMD	287	3
26.60	ADD	6	601
			1001
			1101
			1201
26.60.050	AMD	6	1002
27.34	ADD	275	6
27.44	ADD	275	2
27.53.030	AMD	275	5
28A	ADD	170	102
			104,105
			107
			201
			301,302
			403
			406
28A	ADD	179	201-210
28A.150.510	AMD	297	5
28A.155	ADD	220	2
28A.165.035	AMD	321	4
28A.165.055	AMD	321	10
28A.210	ADD	173	1
28A.210	ADD	302	1
28A.215.060	AMD	169	1
28A.220	ADD	125	4
28A.225.090	AMD	171	1
28A.225.225	AMD	192	1
28A.225.270	AMD	192	2
28A.230	ADD	167	3
28A.230	ADD	190	2
28A.230.097	AMD	170	202
28A.230.120	AMD	185	1
28A.235	ADD	215	3
28A.245	ADD	170	203,304
			404
28A.245.030	AMD	179	302
28A.300	ADD	95	2
28A.300	ADD	297	2
28A.300	ADD	298	3
28A.300.130	AMD	165	1
28A.305.130	AMD	27	1
28A.305.215	AMD	172	2
28A.305.215	AMD	274	2
28A.310.240	AMD	174	1
28A.315	ADD	159	8
28A.315.085	AMD	159	3
28A.315.105	AMD	159	4
28A.315.125	REP	159	5
28A.315.135	REP	159	5
28A.315.145	REP	159	5

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RCW		CH.	SEC.
28A.315.195	AMD	159	1
28A.315.205	AMD	159	2
28A.320	ADD	215	7
28A.320	ADD	321	3
28A.323.020	AMD	159	6
28A.323.020	RECD	159	8
28A.323.030	REP	159	7
28A.335.190	REMD	215	6
28A.343.050	REMD	9	1
28A.343.070	AMD	159	9
28A.400.300	AMD	174	2
28A.405.415	AMD	175	2
28A.410.060	AMD	107	1
28A.410.210	AMD	176	1
28A.410.220	AMD	176	2
28A.415	ADD	65	2
28A.505.220	AMD	170	401
28A.600.045	AMD	170	303
28A.600.320	AMD	95	3
28A.655	ADD	163	3
28A.655.061	REMD	321	2
28A.655.065	AMD	170	205
28A.655.070	AMD	163	2
28A.655.090	AMD	165	3
28B	ADD	208	1-8
28B	ADD	262	6-8
28B.10	ADD	160	2-4
28B.10	ADD	167	4
28B.10	ADD	168	2
28B.10.569	AMD	168	1
28B.15.385	AMD	188	2
28B.15.621	AMD	6	501
28B.15.621	AMD	188	1
28B.15.910	REMD	188	3
28B.50	ADD	170	108,305
28B.50.273	AMD	14	10
28B.50.810	AMD	166	2
28B.50.874	AMD	229	11
28B.76.210	AMD	205	4
28B.76.220	REP	205	5
28B.102.040	AMD	170	306
28B.105.110	AMD	329	908
28B.118.010	AMD	321	9
28B.135	ADD	162	4
28B.135.010	AMD	162	2
28B.135.030	AMD	162	3
28C.04.100	AMD	170	101
28C.04.100	RECD	170	403
28C.04.110	AMD	170	103
28C.04.110	RECD	170	403
28C.18	ADD	103	3,4
28C.18	ADD	258	2-4
28C.18.010	AMD	103	2
28C.18.060	AMD	212	2
28C.22.005	REP	170	405
28C.22.010	REP	170	405
28C.22.020	RECD	170	404
29A.32.031	AMD	1	12
29A.32.070	AMD	1	13
29A.60.140	AMD	308	1
29A.72	ADD	1	8,9
29A.72.040	AMD	1	7
29A.72.250	AMD	1	10
29A.72.290	AMD	1	11
30.04	ADD	108	15
30.60.010	AMD	240	1
31.04	ADD	108	16
31.04.005	REP	78	4
31.04.025	AMD	78	1
31.04.035	AMD	78	2
31.12	ADD	108	17
32.04	ADD	108	18
33.04	ADD	108	19
34.05.514	AMD	128	16
35	ADD	299	2,6,7
			9-14
			16-18
			24
35.20	ADD	227	10
35.21.005	AMD	196	1
35.21.403	AMD	301	28
35.21.684	AMD	117	1
35.22.280	AMD	129	1
35.23.101	AMD	50	1
35.23.191	AMD	50	2
35.23.440	AMD	129	2
35.27.140	AMD	50	3
35.27.370	AMD	129	3
35.58	ADD	123	1-4
35.58	ADD	126	2,3
35.58.020	AMD	123	5
35.74.050	AMD	122	15
35.92.390	AMD	299	19
35.101	ADD	137	6
35.102.050	AMD	129	4
35A.01.040	AMD	196	2
35A.12.050	AMD	50	4
35A.21	ADD	129	5
35A.21.312	AMD	117	2
35A.80.040	AMD	299	20

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RCW		CH.	SEC.
36.01	ADD	299	15
36.01.225	AMD	117	3
36.17.020	AMD	309	2
36.22.175	AMD	328	6006
36.28A	ADD	276	101-103
36.57A	ADD	123	6-9
36.57A.010	AMD	123	10
36.61	ADD	301	2
36.61.010	AMD	301	1
36.61.020	AMD	301	3
36.61.025	AMD	301	4
36.61.030	AMD	301	5
36.61.040	AMD	301	6
36.61.050	AMD	301	7
36.61.060	AMD	301	8
36.61.070	AMD	301	9
36.61.080	AMD	301	10
36.61.090	AMD	301	11
36.61.100	AMD	301	12
36.61.110	AMD	301	13
36.61.115	AMD	301	14
36.61.120	AMD	301	15
36.61.140	AMD	301	16
36.61.160	AMD	301	17
36.61.170	AMD	301	18
36.61.190	AMD	301	19
36.61.200	AMD	301	20
36.61.220	AMD	301	21
36.61.230	AMD	301	22
36.61.260	AMD	301	23
36.61.270	AMD	301	24
36.70A	ADD	289	2
36.70A.280	AMD	289	5
36.73.040	AMD	122	17
36.94.020	AMD	301	25
36.100.040	AMD	137	5
36.120.050	AMD	122	16
36.125	ADD	242	3
36.125.020	AMD	242	2
38.24.010	AMD	44	2
38.40	ADD	44	1
38.40.060	AMD	71	5
38.52.106	AMD	329	909
39.04.010	AMD	130	16
39.04.155	REMD	130	17
39.12	ADD	120	3
39.12.070	AMD	285	2
39.30.020	AMD	130	2
39.34	ADD	181	101
39.34.030	AMD	198	2
39.34.190	AMD	301	26
39.42.060	AMD	179	301
39.102.020	AMD	209	1
40.14.024	AMD	328	6005
40.24	ADD	18	6
40.24.010	AMD	312	1
40.24.020	AMD	18	1
40.24.020	AMD	312	2
40.24.030	AMD	18	2
40.24.030	AMD	312	3
40.24.040	AMD	18	3
40.24.060	AMD	18	4
40.24.070	AMD	18	5
40.24.080	AMD	312	4
41.04.600	REP	229	14
41.04.605	REP	229	14
41.04.610	REP	229	14
41.04.615	REP	229	14
41.04.620	REP	229	14
41.04.625	REP	229	14
41.04.630	REP	229	14
41.04.635	REP	229	14
41.04.640	REP	229	14
41.04.645	REP	229	14
41.04.655	AMD	36	1
41.04.660	AMD	36	2
41.04.665	REMD	36	3
41.05	ADD	229	1
41.05.011	REMD	229	2
41.05.017	AMD	304	2
41.05.123	AMD	229	6
41.05.300	AMD	229	3
41.05.310	AMD	229	4
41.05.320	AMD	229	5
41.05.330	AMD	229	7
41.05.340	AMD	229	8
41.05.350	AMD	229	9
41.05.360	AMD	229	10
41.05.550	AMD	87	1
41.06.142	AMD	267	9
41.26	ADD	99	2-4
41.26.720	AMD	99	5
41.32.010	REMD	175	1
41.32.010	REMD	204	1
41.32.813	AMD	101	1
41.32.868	AMD	101	2
41.35.180	AMD	204	2
41.40.124	AMD	300	1
41.40.127	AMD	300	2
41.40.870	AMD	300	3

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RCW		CH.	SEC.
41.40.873	AMD	300	4
41.45.230	AMD	329	910
41.48.030	AMD	142	1
41.50.110	AMD	329	911
41.50.780	AMD	229	12
41.56	ADD	203	2
41.56.475	AMD	149	1
42.16.010	AMD	186	1
42.17.020	REMD	6	201
42.17.080	AMD	73	1
42.17.128	AMD	29	1
42.17.241	AMD	6	202
42.24.080	AMD	198	6
42.40.020	AMD	266	2
42.40.030	AMD	266	3
42.40.040	AMD	266	4
42.40.050	AMD	266	6
42.40.070	AMD	266	5
42.40.910	AMD	266	9
42.52	ADD	134	15
42.52	ADD	222	2
42.52	ADD	247	1
42.52.040	AMD	6	203
42.52.185	AMD	39	2
42.52.802	AMD	222	14
42.56.230	AMD	200	5
42.56.240	AMD	276	202
42.56.270	REMD	306	1
42.56.330	AMD	200	6
42.56.360	REMD	136	4,5
42.56.430	AMD	252	1
43	ADD	118	2,3
43	ADD	179	101-106
43	ADD	205	2
43	ADD	315	1-6
43.03.305	AMD	6	204
43.06	ADD	228	1
43.06.220	AMD	181	1
43.06.460	AMD	241	1
43.06A	ADD	211	2,6
43.06A.100	AMD	211	3
43.06B.020	AMD	165	2
43.07	ADD	222	10
43.07.220	AMD	222	3
43.07.230	AMD	222	4
43.07.240	AMD	222	5
43.07.365	AMD	222	11
43.07.370	AMD	222	12
43.07.380	AMD	222	13
43.08.190	AMD	329	912
43.08.250	AMD	329	913
43.09.282	AMD	328	6007
43.15.020	AMD	152	9
43.19.1905	REMD	215	4
43.19.1906	AMD	215	5
43.19.501	AMD	328	6016
43.19.706	REP	215	11
43.20A	ADD	74	4
43.20B.080	AMD	6	302
43.20B.695	AMD	53	1
43.21C.0383	AMD	37	2
43.22.350	AMD	181	202
43.22.434	AMD	181	203
43.22.434	AMD	285	4
43.22.480	AMD	181	204
43.24.150	AMD	119	22
43.31	ADD	276	501,502
43.33A.100	AMD	236	1
43.43	ADD	276	201
43.43.753	AMD	97	1
43.43.754	AMD	97	2
43.43.7541	AMD	97	3
43.43.756	AMD	97	4
43.43.825	AMD	134	28
43.60A.140	AMD	183	3
43.60A.190	AMD	187	1
43.63A	ADD	327	13,14
			16
43.63A.125	AMD	327	15
43.70	ADD	146	7
43.70	ADD	215	8
43.70.320	AMD	134	16
43.70.660	AMD	288	6
43.79.330	AMD	128	18
43.79A.040	REMD	122	24
43.79A.040	REMD	128	20
43.79A.040	REMD	208	9
43.79A.040	REMD	239	9
43.84.092	REMD	106	2-4
43.84.092	REMD	128	19
43.86A.030	AMD	187	2
43.86A.060	AMD	187	3
43.88	ADD	326	3
43.88A.020	AMD	1	3
43.88A.030	AMD	1	4
43.99N.060	AMD	328	6017
43.101.010	AMD	69	2
43.101.080	AMD	69	3
43.101.095	AMD	74	8
43.105	ADD	151	2

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RCW		CH.	SEC.
43.105	ADD	262	3,5
43.121.015	AMD	152	8
43.121.020	AMD	152	7
43.121.180	AMD	152	6
43.121.185	AMD	152	5
43.131	ADD	249	9,10
43.131	ADD	315	7,8
43.131.389	REP	313	6
43.131.390	REP	313	6
43.135	ADD	1	2,6
43.135.035	AMD	1	5
43.135.055	AMD	1	14
43.155	ADD	299	30
43.155.050	AMD	328	6002
43.155.070	REMD	299	25
43.160.010	REMD	327	1
43.160.020	AMD	131	1
43.160.020	AMD	327	2
43.160.030	AMD	327	3
43.160.050	AMD	327	4
43.160.060	AMD	327	5
43.160.070	AMD	327	6
43.160.074	AMD	327	7
43.160.076	REMD	327	8
43.160.080	AMD	327	11
43.160.100	REP	327	17
43.160.120	REP	327	17
43.160.130	REP	327	17
43.160.140	REP	327	17
43.160.150	REP	327	17
43.160.160	REP	327	17
43.160.170	REP	327	17
43.160.200	REP	327	17
43.160.210	REP	327	17
43.160.220	REP	327	17
43.160.230	REP	327	17
43.160.240	REP	327	17
43.160.900	AMD	327	9
43.168.020	AMD	131	2
43.180.160	AMD	111	1
43.185A	ADD	112	2
43.185A.010	AMD	6	301
43.185A.110	AMD	112	1
43.215	ADD	164	1,2
43.320	ADD	3	1-3
43.320	ADD	322	1-3
43.330	ADD	14	9
43.330	ADD	290	1
43.330.086	AMD	131	3
43.330.250	AMD	329	914
43.334	ADD	275	4,7
43.365.020	AMD	85	1
43.365.030	AMD	85	2
44.04	ADD	222	6-8
44.28	ADD	160	5
44.28.801	REP	327	17
44.48	ADD	326	2
46.01	ADD	74	6
46.04	ADD	282	1
46.10.020	AMD	52	1
46.10.040	AMD	52	2
46.12.101	AMD	316	1
46.12.510	AMD	139	26
46.16.045	AMD	51	1
46.16.305	REMD	72	1
46.16.30920	AMD	183	1
46.16.30921	AMD	183	2
46.16.381	AMD	1000	1
46.16.725	AMD	72	2
46.20	ADD	282	9,10
46.20.035	AMD	267	8
46.20.113	AMD	139	27
46.20.1131	AMD	139	28
46.20.308	REMD	282	2
46.20.342	AMD	282	4
46.20.380	AMD	282	5
46.20.391	AMD	282	6
46.20.400	AMD	282	7
46.20.410	AMD	282	8
46.20.720	AMD	282	12
46.20.740	AMD	282	13
46.44.0915	AMD	89	1
46.44.140	AMD	76	1
46.52.130	AMD	253	1
46.55	ADD	201	3
46.61.502	AMD	282	20
46.61.504	AMD	282	21
46.61.5055	AMD	282	14
46.61.524	AMD	231	46
46.63.020	REMD	282	11
46.68	ADD	282	3
46.68.110	AMD	121	601
46.76.020	AMD	19	1
46.82.420	AMD	125	3
47.01	ADD	14	8
47.01	ADD	270	2,7
47.01.350	AMD	45	1
47.04	ADD	257	1
47.29.060	AMD	122	18
47.56	ADD	4	2

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RCW		CH.	SEC.
47.56	ADD	122	1-7
			23
47.56	ADD	270	3-5
47.56.030	AMD	122	8
47.56.040	AMD	122	9
47.56.070	AMD	122	10
47.56.076	AMD	122	11
47.56.0761	REP	122	22
47.56.078	AMD	122	12
47.56.080	REP	122	22
47.56.120	AMD	122	13
47.56.240	AMD	122	14
47.58.030	AMD	122	19
47.60	ADD	124	2,5
47.60	ADD	126	4
47.60.005	AMD	124	1
47.60.010	AMD	122	20
47.60.335	AMD	124	7
47.60.345	AMD	124	4
47.60.375	AMD	124	3
47.60.385	AMD	124	6
47.60.645	AMD	45	2
47.60.662	AMD	45	3
47.68.380	AMD	34	1
48	ADD	145	1-18
48.02.190	REMD	328	6003
48.03.020	AMD	217	1
48.03.040	AMD	100	1
48.05.140	AMD	217	2
48.05.180	AMD	217	3
48.05.465	AMD	217	4
48.13	ADD	234	7
48.13.220	AMD	217	5
48.13.450	AMD	234	1
48.13.455	AMD	234	2
48.13.460	AMD	234	3
48.13.465	AMD	234	4
48.13.475	AMD	234	5
48.13.490	AMD	234	6
48.14.020	AMD	217	6
48.14.040	AMD	217	7
48.14.095	AMD	217	8
48.15.080	AMD	217	9
48.15.140	AMD	217	10
48.15.160	AMD	217	11
48.18.100	AMD	217	12
48.18.110	AMD	303	1
48.18.180	AMD	217	13
48.18.220	AMD	217	14
48.18.240	AMD	217	15
48.18.289	AMD	217	16
48.18.292	AMD	217	17
48.18.543	AMD	217	18
48.18A.035	AMD	217	19
48.18A.060	AMD	217	20
48.20	ADD	217	24
48.20.013	AMD	217	21
48.20.025	AMD	303	4
48.20.042	AMD	217	22
48.20.072	AMD	217	23
48.21.045	AMD	143	6
48.21A.040	AMD	217	25
48.23.380	AMD	217	26
48.23.420	AMD	217	27
48.23A	ADD	217	31
48.23A.040	AMD	217	28
48.23A.070	AMD	217	29
48.23A.080	AMD	217	30
48.24	ADD	310	1
48.24.080	AMD	217	32
48.25.140	AMD	217	33
48.29	ADD	110	2-7
			9,13
48.29.010	AMD	110	1
48.29.140	AMD	110	8
48.30.100	AMD	217	34
48.30.140	AMD	217	35
48.30.150	AMD	217	36
48.30.157	AMD	217	37
48.30.170	AMD	217	38
48.30.200	AMD	217	39
48.30.240	AMD	217	40
48.30.260	AMD	217	41
48.30.270	AMD	217	42
48.31.111	AMD	217	43
48.31.141	AMD	217	44
48.36A.310	AMD	217	45
48.36A.330	AMD	217	46
48.37.060	AMD	100	2
48.41.060	AMD	217	47
48.41.100	AMD	317	4
48.43	ADD	304	1
48.43.005	REMD	144	1
48.43.005	REMD	145	20
48.43.105	AMD	217	48
48.43.335	AMD	217	49
48.44.011	AMD	217	50
48.44.017	AMD	303	5
48.44.020	AMD	217	51
48.44.020	AMD	303	2

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RCW		CH.	SEC.
48.44.023	AMD	143	7
48.44.164	AMD	217	52
48.44.230	AMD	217	53
48.46.023	AMD	217	54
48.46.060	AMD	303	3
48.46.062	AMD	303	6
48.46.066	AMD	143	8
48.46.170	AMD	217	55
48.46.243	AMD	217	56
48.46.260	AMD	217	57
48.46.340	AMD	217	58
48.50.070	AMD	217	59
48.56.020	AMD	217	60
48.56.080	AMD	217	61
48.62.121	AMD	217	62
48.62.151	AMD	217	63
48.66.055	AMD	217	64
48.66.120	AMD	217	65
48.76.090	AMD	217	66
48.84.010	AMD	145	19
48.84.050	AMD	217	67
48.84.060	AMD	217	68
48.85.010	AMD	145	21
48.92.040	AMD	217	69
48.92.090	AMD	217	70
48.92.095	AMD	217	71
48.92.120	AMD	217	72
48.94.005	AMD	217	73
48.94.040	AMD	217	74
48.97.005	AMD	217	75
48.97.015	AMD	217	76
48.97.020	AMD	217	77
48.97.025	AMD	217	78
48.97.900	AMD	217	79
48.98.010	AMD	217	80
48.98.015	AMD	217	81
48.98.020	AMD	217	82
48.98.030	AMD	217	83
48.99.030	AMD	217	84
48.115.001	AMD	217	85
48.115.005	AMD	217	86
48.115.010	AMD	217	87
48.115.015	AMD	217	88
48.115.020	AMD	217	89
48.115.025	AMD	217	90
48.115.030	AMD	217	91
48.115.035	AMD	217	92
48.115.040	AMD	217	93
48.120.005	AMD	217	94
48.120.010	AMD	217	95
48.125.030	AMD	217	96
48.135.010	AMD	217	97
49	ADD	71	1-3
49	ADD	286	1-15
49.46	ADD	199	2
49.60.230	REMD	266	7
49.60.250	REMD	266	8
50.04.145	AMD	102	1
50.12.010	AMD	74	5
50.12.070	AMD	120	7
50.13.060	AMD	120	6
50.16.010	AMD	329	915
50.20.050	AMD	323	1
50.29.021	AMD	323	2
51.04	ADD	74	2
51.08	ADD	102	5
51.08.070	AMD	102	2
51.08.180	AMD	102	3
51.08.195	AMD	102	4
51.12.020	AMD	217	98
51.12.100	AMD	70	1
51.12.120	AMD	88	1
51.16.070	AMD	120	5
51.32	ADD	280	3
51.32.240	AMD	280	2
51.36.020	AMD	54	1
51.44	ADD	280	4
51.48.020	AMD	120	9
51.48.103	AMD	120	8
51.52	ADD	280	5
51.52.050	AMD	280	1
53	ADD	130	5-15
53.08	ADD	130	3,4
53.08.120	AMD	130	1
53.08.295	AMD	45	4
53.12.270	AMD	130	18
53.34.010	AMD	122	21
54.04.045	AMD	197	2
54.04.070	AMD	216	2
54.04.082	AMD	216	3
54.12.080	AMD	218	1
54.16	ADD	299	22
54.16.180	AMD	198	5
54.44.020	AMD	198	3
57.12.010	AMD	31	1
58.08.040	AMD	17	2
59.18	ADD	278	13
59.18.030	AMD	278	12
59.18.200	AMD	113	4
59.18.312	AMD	43	1

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RCW		CH.	SEC.
59.18.365	AMD	75	1
59.18.375	AMD	75	2
59.18.600	REP	256	3
59.20	ADD	116	4,5
59.20.030	AMD	116	2
59.22.050	AMD	116	6
59.23.005	REP	116	7
59.23.010	REP	116	7
59.23.015	REP	116	7
59.23.020	REP	116	7
59.23.025	REP	116	7
59.23.030	REP	116	7
59.23.035	REP	116	7
59.23.040	REP	116	7
60.04.211	AMD	6	641
61.24.010	AMD	153	1
61.24.030	AMD	108	22
61.24.030	AMD	153	2
61.24.040	AMD	153	3
61.24.045	AMD	153	4
61.24.130	AMD	153	5
61.24.135	AMD	153	6
61.34	ADD	278	2-10
61.34.020	AMD	278	1
61.34.040	AMD	278	11
62A.9A-525	AMD	290	2
63.60.010	AMD	62	1
63.60.020	AMD	62	2
63.60.030	AMD	62	3
64.06.010	AMD	6	632
64.28.010	AMD	6	625
64.28.020	AMD	6	626
64.28.030	AMD	6	627
64.28.040	AMD	6	628
64.32.010	AMD	114	3
64.32.150	AMD	114	2
64.34	ADD	113	3
64.34	ADD	115	1-6
64.34.010	AMD	114	1
64.34.010	AMD	115	7
64.34.020	AMD	115	8
64.34.304	AMD	115	9
64.34.410	AMD	115	10
64.34.425	AMD	115	11
64.34.440	AMD	113	1
64.44	ADD	201	2
64.44.050	AMD	201	1
65	ADD	57	1-7
66.04.010	AMD	94	3
66.04.010	REMD	94	4
66.08.026	AMD	67	1
66.12	ADD	64	1
66.20.010	AMD	181	601,602
66.20.300	AMD	41	1
66.20.300	AMD	94	10
66.20.310	AMD	41	2,3
66.20.310	AMD	94	11
66.24	ADD	94	2
66.24.140	AMD	94	1
66.24.170	AMD	41	5
66.24.185	AMD	41	4
66.24.210	REMD	94	8
66.24.240	AMD	41	6,7
66.24.244	REMD	41	8,9
66.24.244	REMD	248	1,2
66.24.400	REMD	41	10
66.24.481	AMD	94	9
66.24.590	AMD	41	11
66.28.010	REMD	94	5
66.28.040	AMD	41	12
66.28.040	AMD	94	6
66.28.060	AMD	94	7
67.16.060	AMD	24	1
67.28	ADD	137	3
67.28.180	AMD	264	2
67.28.1815	AMD	264	3
67.28.1816	AMD	28	1
67.40	ADD	137	4
67.40.025	AMD	329	916
67.40.040	AMD	328	6011
67.40.040	AMD	329	917
68	ADD	139	1-24
			30
68.50	ADD	275	1
68.50.500	REP	139	31
68.50.510	REP	139	31
68.50.520	REP	139	31
68.50.530	REP	139	31
68.50.540	REP	139	31
68.50.550	REP	139	31
68.50.560	REP	139	31
68.50.570	REP	139	31
68.50.580	REP	139	31
68.50.590	REP	139	31
68.50.600	REP	139	31
68.50.610	REP	139	31
68.50.620	REP	139	31
68.50.635	RECD	139	30
68.50.640	RECD	139	30
68.52	ADD	96	2

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RCW		CH.	SEC.
68.52.100	AMD	96	1
68.60	ADD	275	3
69.50.505	AMD	6	631
70	ADD	14	1-4
			7,11,12
70	ADD	288	2-5
			7,9
70.41	ADD	47	2,3
70.41.080	AMD	155	1
70.41.210	AMD	134	14
70.44.050	AMD	31	2
70.47.015	AMD	217	99
70.47A.020	AMD	143	1
70.47A.030	AMD	143	2
70.47A.040	AMD	143	3
70.47A.070	AMD	143	4
70.47A.110	AMD	143	5
70.54	ADD	56	3
70.54.220	AMD	56	2
70.56.020	AMD	136	1
70.56.040	AMD	136	2
70.56.050	AMD	136	3
70.74	ADD	285	11
70.74.137	AMD	285	5
70.74.140	AMD	285	6
70.74.142	AMD	285	7
70.74.144	AMD	285	8
70.74.146	AMD	285	9
70.74.360	AMD	285	10
70.79.330	AMD	181	205
70.87.030	AMD	181	206
70.87.120	AMD	181	207
70.94.151	AMD	14	5
70.94.161	AMD	14	6
70.94.473	AMD	40	1
70.95C.120	AMD	178	1
70.95L.020	AMD	193	1
70.95N.290	AMD	79	1
70.96A.350	AMD	329	918
70.96A.800	AMD	320	1
70.96B.010	AMD	320	3
70.96B.050	AMD	320	5
70.96B.100	AMD	320	6
70.96B.800	AMD	320	2
70.96B.900	REP	320	7
70.105D	ADD	106	1
70.105D.070	REMD	328	6009
70.105D.070	AMD	329	919,920
70.105D.070	REMD	329	921
70.118.140	AMD	202	1
70.118.140	RECD	202	3
70.119A	ADD	214	2
70.120A	ADD	32	2
70.123.020	AMD	6	303
70.129.140	AMD	6	304
70.146	ADD	299	31
70.146.070	REMD	299	26
71.05.020	REMD	156	1
71.05.215	AMD	156	2
71.05.217	AMD	156	3
71.05.235	AMD	213	5
71.05.280	AMD	213	6
71.05.290	AMD	213	7
71.05.300	AMD	213	8
71.05.320	AMD	213	9
71.05.425	AMD	213	10
71.09.025	AMD	213	11
71.09.030	AMD	213	12
71.09.060	AMD	213	13
71.24	ADD	261	1
71.24.025	AMD	261	2
71.24.035	REMD	261	3
71.24.035	REMD	267	5
71.24.300	AMD	261	4
71.24.320	AMD	261	5
71.24.330	AMD	261	6
71A.20.170	AMD	265	1
72.01	ADD	104	4
72.01.210	AMD	104	3
72.09	ADD	231	56
72.09	ADD	276	601
72.09.015	AMD	231	47
72.09.270	AMD	231	48
72.09.345	AMD	231	49
72.09.580	AMD	231	50
72.23	ADD	47	4
72.36.030	AMD	6	503
72.36.040	AMD	6	504
72.36.050	AMD	6	505
72.36.070	AMD	6	506
72.36.110	AMD	6	507
73.04.010	AMD	6	510
73.04.110	AMD	183	4
73.04.115	AMD	6	511
73.04.120	AMD	6	508
73.08.005	AMD	6	502
73.36.140	AMD	6	509
74.04	ADD	74	3
74.04.660	AMD	181	301
74.08A.340	AMD	329	922

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RCW		CH.	SEC.
74.09	ADD	146	13
74.09	ADD	245	1
74.09.510	AMD	317	1
74.09.530	AMD	317	2
74.13	ADD	267	7
74.13	ADD	281	1,2
74.13.031	AMD	267	6
74.13.640	AMD	211	1
74.15	ADD	267	10
74.15.040	AMD	232	3
74.15.240	AMD	267	11
74.34	ADD	146	10
74.38.030	AMD	146	5
74.39A	ADD	146	8
74.39A.290	AMD	140	1
74.41.040	AMD	146	2
74.41.050	AMD	146	4
74.42.070	AMD	6	305
74.46.421	AMD	263	1
74.46.431	AMD	263	2
74.46.511	AMD	263	3
74.46.515	AMD	263	4
74.46.803	AMD	255	1
74.46.807	AMD	255	2
76.09.030	AMD	46	1
76.15	ADD	299	4,5,8
76.15.010	AMD	299	23
76.15.020	AMD	299	3
76.48	ADD	191	1
76.48.020	AMD	191	9
76.48.050	AMD	191	2
76.48.060	AMD	191	3
76.48.085	AMD	191	4
76.48.086	AMD	191	5
76.48.110	AMD	191	6
76.48.120	AMD	191	7
76.48.200	AMD	191	8
77.04.150	AMD	294	1
77.08.010	REMD	277	2
77.12	ADD	225	4
77.15	ADD	225	2
77.15.280	AMD	244	2
77.15.650	AMD	10	2
77.32	ADD	10	1
77.32.010	AMD	329	923
77.32.070	AMD	244	1
77.32.250	AMD	10	3
77.32.470	AMD	35	1
77.55.021	AMD	272	1
77.60	ADD	202	3
77.60.160	AMD	202	2
77.80.010	REP	252	5
77.80.020	AMD	252	2
77.80.050	AMD	252	3
77.80.060	AMD	252	4
79.17.010	AMD	328	6012
79.17.020	REMD	328	6013
79.64.020	AMD	328	6004
79.105	ADD	132	1
79.105	ADD	299	33
79.105.150	AMD	299	28
79.110.230	AMD	55	1
79.110.240	AMD	55	2
79A.05.065	AMD	238	1
79A.05.165	AMD	83	2
79A.15	ADD	299	34
79A.15.040	REMD	299	29
79A.60.070	REP	231	57
80.04.130	AMD	181	401
80.28.010	AMD	299	35
80.28.060	AMD	181	402
80.28.300	AMD	299	21
80.36.110	AMD	181	403
80.36.135	AMD	181	414
80.36.145	AMD	181	407
80.36.320	AMD	181	408
80.36.330	AMD	181	409
80.36.350	AMD	181	410
80.80.020	REP	14	13
81.04.130	AMD	181	404
81.04.150	AMD	181	405
81.28.050	AMD	181	406
81.68.046	AMD	181	415
81.84.070	AMD	181	416
81.108.050	AMD	181	411
81.108.060	AMD	181	412
81.108.110	AMD	181	413
82	ADD	15	1-3
			5,6
82.02.020	AMD	113	2
82.02.090	AMD	42	1
82.04	ADD	81	15
82.04	ADD	223	1
82.04	ADD	283	1
82.04	ADD	284	2
82.04	ADD	314	2,3
82.04.214	AMD	273	1
82.04.250	AMD	81	5
82.04.260	REMD	81	4
82.04.260	REMD	217	100

RCW SECTIONS AFFECTED BY 2008 STATUTES

RCW		CH.		SEC.
82.04.260	REMD	296		1
82.04.290	AMD	81		6
82.04.298	AMD	49		1
82.04.431	AMD	137		1
82.04.44525	AMD	81		9
82.04.4461	AMD	81		7
82.04.4463	AMD	81		8
82.04.4487	REP	81		16
82.04.4489	AMD	85		3
82.08	ADD	92		1
82.08	ADD	137		2
82.08	ADD	237		2
82.08	ADD	260		1
82.08	ADD	314		4
82.08	ADD	325		2,3
82.08.0316	AMD	228		3
82.08.975	AMD	81		2
82.08.981	REP	81		16
82.12	ADD	92		2
82.12	ADD	237		3
82.12	ADD	314		5
82.12.0316	AMD	228		4
82.12.975	AMD	81		3
82.12.981	REP	81		16
82.14.030	AMD	86		101
82.14.045	AMD	86		102
82.14.048	AMD	86		103
82.14.049	AMD	264		4
82.14.360	AMD	86		104
82.14.390	REMD	48		1
82.14.460	AMD	157		2
82.16.0491	AMD	131		4
82.19.010	AMD	86		201
82.24	ADD	228		2
82.24.020	AMD	86		301
82.24.020	AMD	226		3
82.24.026	AMD	86		302
82.24.027	AMD	86		303
82.24.028	AMD	86		304
82.24.080	AMD	226		2
82.24.110	AMD	226		4
82.24.250	AMD	226		5
82.29A.080	AMD	86		401
82.29A.130	AMD	84		2
82.29A.130	AMD	194		1
82.29A.135	REMD	268		2
82.29A.150	REP	86		402
82.29A.900	DECD	86		403
82.29A.910	DECD	86		403
82.32	ADD	184		1
82.32.050	AMD	181		501
82.32.080	AMD	181		502
82.32.140	AMD	181		503
82.32.330	AMD	81		11
82.32.545	AMD	81		10
82.32.545	AMD	283		2
82.32.550	AMD	81		12
82.32.590	REMD	15		7
82.32.590	REMD	81		13
82.32.600	REMD	15		8
82.32.600	REMD	81		14
82.32.635	REP	81		16
82.32.640	REP	81		16
82.32.730	AMD	324		1
82.36.031	AMD	181		505
82.38.080	AMD	237		1
82.38.150	AMD	181		506
82.42.040	AMD	181		507
82.45	ADD	269		1
82.45.010	AMD	6		701
82.45.010	AMD	116		3
82.50	ADD	181		508
82.63.030	AMD	15		4
83.100.050	AMD	181		504
83.100.230	AMD	329		924
84	ADD	2	E07	1-9
84.09.030	AMD	86		501
84.33	ADD	181		509
84.36	ADD	84		1
84.36.041	AMD	6		707
84.36.120	AMD	6		708
84.36.381	AMD	6		706
84.36.383	AMD	6		709
84.36.383	AMD	182		1
84.36.635	AMD	268		1
84.37.080	AMD	6		710
84.38.030	AMD	6		702
84.38.070	AMD	6		703
84.38.130	AMD	6		704
84.38.150	AMD	6		705
84.40.042	AMD	17		1
84.48.080	AMD	86		502
84.55.005	REMD	1	E07	1
84.55.0101	AMD	1	E07	2
84.55.050	AMD	319		1
84.56.020	AMD	181		510
84.56.440	AMD	181		511
85.06.640	AMD	77		1
86.09.151	AMD	301		27
88.16	ADD	128		15

RCW SECTIONS AFFECTED BY 2008 STATUTES

RCW		CH.	SEC.
88.16.010	AMD	128	1
88.16.035	AMD	128	2
88.16.061	AMD	128	17
88.16.070	AMD	128	3
88.16.090	AMD	128	4
88.16.100	AMD	128	5
88.16.102	AMD	128	6
88.16.103	AMD	128	7
88.16.105	AMD	128	8
88.16.107	AMD	128	9
88.16.110	AMD	128	10
88.16.118	REMD	128	11
88.16.135	AMD	128	12
88.16.155	AMD	128	13
88.16.200	AMD	128	14
89.08	ADD	299	32
89.08.520	AMD	299	27
90.48.390	AMD	329	925
90.71.310	AMD	329	926
90.71.370	AMD	329	927
90.72.030	AMD	250	1
90.72.045	AMD	250	2
90.72.070	AMD	250	3
90.82.060	AMD	210	1
90.84.030	AMD	80	1
90.84.040	AMD	80	2
90.90	ADD	82	1-3

UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2008 STATUTES

LAWS 2007			LAWS 2008	
Ch.	Sec.	Action	Ch.	Sec.
120	4	REP	320	8
178	1	AMD	8	1
178	2	AMD	8	2
288	2	AMD	120	10
354	12	AMD	170	402
399	2	AMD	177	1
399	3	AMD	170	106
518		ADD	121	304
518		ADD	121	603
518		ADD	121	605
518	101	AMD	121	101
518	102	AMD	121	102
518	103	AMD	121	103
518	104	AMD	121	104
518	105	AMD	121	105
518	106	AMD	121	106
518	107	AMD	121	107
518	201	AMD	121	201
518	202	AMD	121	202
518	203	AMD	121	203
518	204	AMD	121	204
518	205	AMD	121	205
518	206	AMD	121	206
518	207	AMD	121	207
518	208	AMD	121	208
518	209	AMD	121	209
518	210	AMD	121	210
518	212	AMD	121	211
518	213	AMD	121	212
518	214	AMD	121	213
518	215	AMD	121	214
518	216	AMD	121	215
518	217	AMD	121	216
518	218	AMD	121	217
518	219	AMD	121	218
518	220	AMD	121	219
518	221	AMD	121	220
518	222	AMD	121	221
518	223	AMD	121	222
518	224	AMD	121	223
518	225	AMD	121	224
518	226	AMD	121	225
518	227	AMD	121	226
518	301	AMD	121	301
518	302	AMD	121	302
518	303	AMD	121	303
518	304	AMD	121	305
518	305	AMD	121	306
518	306	AMD	121	307
518	307	AMD	121	308
518	308	AMD	121	309
518	309	AMD	121	310
518	310	AMD	121	311
518	401	AMD	121	401
518	402	AMD	121	402
518	403	AMD	121	403
518	404	AMD	121	404
518	405	AMD	121	405
518	406	AMD	121	406
518	407	AMD	121	407
518	501	AMD	121	501
518	502	AMD	121	502
518	503	AMD	121	503
518	713	AMD	121	604
520		ADD	328	1001
520		ADD	328	1011
520		ADD	328	1012
520		ADD	328	1013
520		ADD	328	1016
520		ADD	328	1017
520		ADD	328	1018
520		ADD	328	1019
520		ADD	328	1020
520		ADD	328	1021
520		ADD	328	1022
520		ADD	328	1026
520		ADD	328	1033
520		ADD	328	1034
520		ADD	328	1035
520		ADD	328	1036
520		ADD	328	1040
520		ADD	328	2001
520		ADD	328	2009
520		ADD	328	2010
520		ADD	328	2012
520		ADD	328	2013
520		ADD	328	3004
520		ADD	328	3005
520		ADD	328	3011
520		ADD	328	3012
520		ADD	328	3014
520		ADD	328	3017
520		ADD	328	3022
520		ADD	328	3023
520		ADD	328	3024
520		ADD	328	3025
520		ADD	328	3030
520		ADD	328	3032
520		ADD	328	3037
520		ADD	328	3038

UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2008 STATUTES

LAWS 2007			LAWS 2008	
Ch.	Sec.	Action	Ch.	Sec.
520		ADD	328	3039
520		ADD	328	3044
520		ADD	328	4002
520		ADD	328	4003
520		ADD	328	4004
520		ADD	328	4005
520		ADD	328	5002
520		ADD	328	5003
520		ADD	328	5004
520		ADD	328	5005
520		ADD	328	5006
520		ADD	328	5007
520		ADD	328	5008
520		ADD	328	5009
520		ADD	328	5012
520		ADD	328	5013
520		ADD	328	5014
520		ADD	328	5015
520		ADD	328	5016
520		ADD	328	5019
520		ADD	328	5020
520		ADD	328	5021
520		ADD	328	5028
520		ADD	328	5033
520		ADD	328	5034
520		ADD	328	6008
520		ADD	328	6015
520	1020	AMD	328	1002
520	1021	AMD	328	1010
520	1030	AMD	328	1003
520	1031	AMD	328	1005
520	1034	AMD	328	1004
520	1035	AMD	328	1006
520	1036	AMD	328	1007
520	1039	AMD	328	1009
520	1041	AMD	328	1008
520	1042	AMD	328	1014
520	1045	AMD	328	1015
520	1048	AMD	328	1023
520	1049	AMD	328	1025
520	1050	AMD	328	1024
520	1065	AMD	328	1028
520	1066	AMD	328	1029
520	1073	AMD	328	1031
520	1075	AMD	328	1038
520	1090	AMD	328	1039
520	2007	AMD	328	2002
520	2021	AMD	328	2003
520	2029	AMD	328	2005
520	2032	AMD	328	2006
520	2037	AMD	328	2004
520	2042	AMD	328	2007
520	2045	AMD	328	2008
520	2054	AMD	328	2014
520	2056	AMD	328	2015
520	2058	AMD	328	2016
520	2061	AMD	328	2011
520	2075	AMD	328	2017
520	3001	AMD	328	3001
520	3019	AMD	328	3002
520	3036	AMD	328	3003
520	3037	AMD	328	3006
520	3045	AMD	328	3007
520	3046	AMD	328	3008
520	3048	AMD	328	3009
520	3049	AMD	328	3013
520	3050	AMD	328	3010
520	3060	AMD	328	3015
520	3072	AMD	328	3016
520	3084	AMD	328	3019
520	3087	AMD	328	3018
520	3092	AMD	328	3020
520	3095	AMD	328	3021
520	3102	AMD	328	3026
520	3134	AMD	328	3027
520	3144	AMD	328	3029
520	3146	AMD	328	3028
520	3155	AMD	328	3031
520	3161	AMD	328	3033
520	3175	AMD	328	3034
520	3179	AMD	328	3035
520	3187	AMD	328	3036
520	3204	AMD	328	3042
520	3211	AMD	328	3041
520	3214	AMD	328	3043
520	3219	AMD	328	3045
520	4004	AMD	328	4001
520	5008	AMD	328	5001
520	5010	AMD	328	5010
520	5014	AMD	328	5011
520	5016	AMD	328	5017
520	5017	AMD	328	5018
520	5086	AMD	328	5022
520	5100	AMD	328	5023
520	5117	AMD	328	5024
520	5118	AMD	328	5025
520	5119	AMD	328	5026
520	5128	AMD	328	5027
520	5145	AMD	328	5029
520	5217	AMD	328	5030

LAWS 2007			LAWS 2008	
Ch.	Sec.	Action	Ch.	Sec.
520	5255	AMD	328	5031
520	5275	AMD	328	5032
520	6006	REP	328	6019
520	6013	AMD	328	6001
520	6016	AMD	328	6014
520	6032	AMD	328	6010
522		ADD	329	223
522		ADD	329	517
522		ADD	329	602
522		ADD	329	603
522		ADD	329	707
522		ADD	329	712
522		ADD	329	714
522		ADD	329	716
522		ADD	329	717
522		ADD	329	718
522		ADD	329	719
522		ADD	329	720
522		ADD	329	721
522		ADD	329	722
522		ADD	329	723
522		ADD	329	803
522		ADD	329	905
522		ADD	329	907
522	101	AMD	329	101
522	102	AMD	329	102
522	103	AMD	329	103
522	104	AMD	329	104
522	105	AMD	329	105
522	106	AMD	329	106
522	107	AMD	329	107
522	109	AMD	329	108
522	110	AMD	329	109
522	111	AMD	329	110
522	112	AMD	329	111
522	113	AMD	329	112
522	114	AMD	329	113
522	116	AMD	329	114
522	117	AMD	329	115
522	118	AMD	329	116
522	119	AMD	329	117
522	120	AMD	329	118
522	121	AMD	329	119
522	122	AMD	329	120
522	123	AMD	329	121
522	124	AMD	329	122
522	125	AMD	329	123
522	126	AMD	329	124
522	127	AMD	329	125
522	128	AMD	329	126

LAWS 2007			LAWS 2008	
Ch.	Sec.	Action	Ch.	Sec.
522	129	AMD	329	127
522	130	AMD	329	128
522	131	AMD	329	129
522	132	AMD	329	130
522	133	AMD	329	131
522	134	AMD	329	132
522	135	AMD	329	133
522	136	AMD	329	134
522	137	AMD	329	135
522	138	AMD	329	136
522	139	AMD	329	137
522	140	AMD	329	138
522	141	AMD	329	139
522	142	AMD	329	140
522	143	AMD	329	141
522	144	AMD	329	142
522	146	AMD	329	143
522	147	AMD	329	144
522	148	AMD	329	145
522	149	AMD	329	146
522	150	AMD	329	147
522	151	AMD	329	148
522	152	AMD	329	149
522	153	AMD	329	150
522	154	AMD	329	151
522	201	AMD	329	201
522	202	AMD	329	202
522	203	AMD	329	203
522	204	AMD	329	204
522	205	AMD	329	205
522	206	AMD	329	206
522	207	AMD	329	207
522	208	AMD	329	208
522	209	AMD	329	209
522	210	AMD	329	210
522	211	AMD	329	211
522	212	AMD	329	212
522	213	AMD	329	213
522	214	AMD	329	214
522	215	AMD	329	215
522	216	AMD	329	216
522	217	AMD	329	217
522	218	AMD	329	218
522	219	AMD	329	219
522	220	AMD	329	220
522	221	AMD	329	221
522	222	AMD	329	222
522	223	AMD	329	224
522	224	AMD	329	225
522	225	AMD	329	226

UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2008 STATUTES

LAWS 2007			LAWS 2008	
Ch.	Sec.	Action	Ch.	Sec.
522	226	AMD	329	227
522	301	AMD	329	301
522	302	AMD	329	302
522	303	AMD	329	303
522	304	AMD	329	304
522	305	AMD	329	305
522	306	AMD	329	306
522	307	AMD	329	307
522	308	AMD	329	308
522	309	AMD	329	309
522	310	AMD	329	310
522	311	AMD	329	311
522	401	AMD	329	401
522	402	AMD	329	402
522	501	AMD	329	501
522	502	AMD	329	502
522	503	AMD	329	503
522	504	AMD	329	504
522	505	AMD	329	505
522	507	AMD	329	506
522	508	AMD	329	507
522	509	AMD	329	508
522	510	AMD	329	509
522	511	AMD	329	510
522	513	AMD	329	511
522	514	AMD	329	512
522	515	AMD	329	513
522	516	AMD	329	514
522	517	AMD	329	515
522	519	AMD	329	516
522	601	AMD	329	601
522	602	AMD	329	604
522	603	AMD	329	605
522	604	AMD	329	606
522	605	AMD	329	607
522	606	AMD	329	608
522	607	AMD	329	609
522	608	AMD	329	610
522	609	AMD	329	611
522	610	AMD	329	612
522	611	AMD	329	613
522	612	AMD	329	614
522	613	AMD	329	615
522	614	AMD	329	616
522	615	AMD	329	617
522	616	AMD	329	618
522	617	AMD	329	619
522	618	AMD	329	620
522	619	AMD	329	621
522	701	AMD	329	701
522	702	AMD	329	702
522	703	AMD	329	703
522	704	AMD	329	704
522	705	AMD	329	705
522	706	AMD	329	706
522	713	REP	329	724
522	716	AMD	329	708
522	718	AMD	329	709
522	719	AMD	329	710
522	722	AMD	329	711
522	728	AMD	329	715
522	801	AMD	329	801
522	805	AMD	329	802
522	910	AMD	329	901
522	911	AMD	329	902
522	912	AMD	329	903
522	913	AMD	329	904
522	1621	AMD	329	713

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SUBJECT INDEX OF 2008 STATUTES

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STATE MEASURES FILED WITH THE SECRETARY OF STATE

(FOR PRIOR YEARS, SEE HTTP://SECSTATE.WA.GOV/ELECTIONS/INITIATIVES/STATISTICS.ASPX OR CALL THE OFFICE OF THE SECRETARY OF STATE AT (360) 902-4180.)

INITIATIVES TO THE PEOPLE

For 2007 information on Initiatives to the People, see http://secstate.wa.gov/elections/initiatives/statistics.aspx. For additional information, call the Office of the Secretary of State at (360) 902-4180.

INITIATIVES TO THE LEGISLATURE

For 2007 information on Initiatives to the Legislature, see http://secstate.wa.gov/elections/initiatives/statistics.aspx. For additional information, call the Office of the Secretary of State at (360) 902-4180.

REFERENDUM MEASURES

REFERENDUM MEASURE NO. 67 (Chapter 498, Laws of 2007, Regular Session—Insurance Fair Conduct Act) would make it unlawful for insurers to unreasonably deny a claim for coverage or payment of benefits to any "first party claimant," as defined in the bill, or to violate insurance fair practices regulation. Filed on May 16, 2007, by Dana R. Bieber of Redmond. 156,446 signatures received July 20, 2007. Certified to ballot on July 30, 2007. Passed by voters 910,598 to 695,326 on November 6, 2007.

REFERENDUM BILLS

For 2007 information on Referendum Bills, see http://secstate.wa.gov/elections/initiatives/statistics.aspx. For additional information, call the Office of the Secretary of State at (360) 902-4180.

HISTORY OF CONSTITUTIONAL AMENDMENTS ADOPTED SINCE STATEHOOD

No. 1. Section 5, Article XVI. Re: **Permanent School Fund.** Adopted November, 1894.

No. 2. Section 1, Article VI. Re: **Qualification of Electors.** Adopted November, 1896.

No. 3. Section 2, Article VII. Re: **Uniform Rates of Taxation.** Adopted November, 1900.

No. 4. Section 11, Article I. Re: **Religious Freedom.** Adopted November, 1904.

No. 5. Section 1, Article VI. Re: **Equal Suffrage.** Adopted November, 1910.

No. 6. Section 10, Article III. Re: **Succession in Office of Governor.** Adopted November, 1910.

No. 7. Section 1, Article II. Re: **Initiative and Referendum.** Adopted November, 1912.

No. 8. Adding Sections 33 and 34, Article I. Re: **Recall.** Adopted November, 1912.

No. 9. Section 16, Article I. Re: **Taking of Private Property.** Adopted November, 1922.

No. 10. Section 22, Article I. Re: **Right of Appeal.** Adopted November, 1922.

No. 11. Section 4, Article VIII. Re: **Appropriation.** Adopted November, 1922.

No. 12. Section 5, Article XI. Re: **Consolidation of County Offices.** Adopted November, 1924.

No. 13. Section 15, Article II. Re: **Vacancies in the Legislature.** Adopted November, 1930.

No. 14. Article VII. Re: **Revenue and Taxation.** Adopted November, 1930.

No. 15. Section 1, Article XV. Re: **Harbors and Harbor Areas.** Adopted November, 1932.

No. 16. Section 11, Article XII. Re: **Double Liability of Stockholders.** Adopted November, 1940.

No. 17. Section 2, Article VII. Re: **40-Mill Tax Limit.** Adopted November, 1944.

No. 18. Adding Section 40, Article II. Re: **Restriction of motor vehicle license fees and excise taxes on motor fuels to highway purposes only.** Adopted November, 1944.

No. 19. Adding Section 3, Article VII. Re: **State to tax the United States and its instrumentalities to the extent that the laws of the United States will allow.** Adopted November, 1946.

No. 20. Adding Section 1, Article XXVIII. Re: **Legislature to fix the salaries of state elective officials.** Adopted November, 1948.

No. 21. Section 4, Article XI. Re: **Permit counties to adopt "Home Rule" charters.** Adopted November, 1948.

No. 22. Repealing Section 7 of Article XI. Re: **County elective officials.** (These officials can now hold same office more than two terms in succession.) Adopted November, 1948.

No. 23. Adding Section 16, Article XI. Re: **Permitting the formation, under a charter, of combined city and county municipal corporations having a population of 300,000 or more.** Adopted November, 1948.

No. 24. Article II, Section 33. Re: **Permitting ownership of land by Canadians who are citizens of provinces wherein citizens of the State of Washington may own land.** (All provinces of Canada authorize such ownership.) Adopted November, 1950.

No. 25. Adding Section 3(a), Article IV. Re: **Establishing Retirement Age for Judges of Supreme and Superior Courts.** Adopted November, 1952.

No. 26. Adding Section 41, Article II. Re: **Permitting the Legislature to Amend Initiative Measures.** Adopted November, 1952.

No. 27. Section 6, Article VIII. Re: **Extending Bonding Powers of School Districts.** Adopted November, 1952.

No. 28. Sections 6 and 10, Article IV. Re: **Increasing Monetary Jurisdiction of Justice Courts.** Adopted November, 1952.

No. 29. Article II, Section 33. Re: **Redefining "Alien," thereby permitting the Legislature to determine the policy of the state respecting the ownership of land by corporations having alien shareholders.** Adopted November, 1954.

No. 30. Adding Section 1A, Article II. Re: **Increasing the number of signatures necessary to certify a state initiative or referendum measure.** Adopted November, 1956.

No. 31. Section 25, Article III. Re: **Removing the restriction prohibiting the state treasurer from being elected for more than one successive term.** Adopted November, 1956.

No. 32. Section 2, Article XV. Re: **Filling vacancies in the state legislature.** Adopted November, 1956.

No. 33. Section 1, Article XXIV. Re: **Modification of state boundaries by compact.** Adopted November, 1958.

No. 34. Section 11, Article I. Re: **Employment of chaplains at state institutions.** Adopted November, 1958.

No. 35. Section 25, Article II. Re: **Pensions and Employees' Extra Compensation.** Adopted November, 1958.

No. 36. Section 1, Article II by adding a new subsection (e). Re: **Publication and Distribution of Voters' Pamphlet.** Adopted November, 1962.

No. 37. Section 1, Article XXIII. Re: **Publication of Proposed Constitutional Amendments.** Adopted November, 1962.

No. 38. Adding Section 2(c), Article IV. Re: **Temporary Performance of Judicial Duties.** Adopted November, 1962.

No. 39. Adding Section 42, Article II. Re: **Governmental Continuity During Emergency Periods.** Adopted November, 1962.

No. 40. Section 10, Article XI. Re: **Lowering minimum population for first class cities from 20,000 to 10,000. Also changing newspaper publication requirements for proposed charters.** Adopted November, 1964.

No. 41. Section 29, Article IV. Re: **Election of Superior Court Judges.** Adopted November, 1966.

No. 42. Repealing Section 33, Article II and Amendments 24 and 29. Re: **Alien Ownership of Lands.** Adopted November, 1966.

No. 43. Section 3, Article IX. Re: **Funds for Support of the Common Schools.** Adopted November, 1966.

No. 44. Section 5, Article XVI. Re: **Investment of Permanent Common School Fund.** Adopted November, 1966.

No. 45. Adding Section 8, Article VIII. Re: **Port Expenditures—Industrial Development—Promotion.** Adopted November, 1966.

No. 46. Adding Section 1A, Article VI. Re: **Voter Qualifications for Presidential Elections.** Adopted November, 1966.

No. 47. Adding Section 10, Article VII. Re: **Retired Persons Property Tax Exemption.** Adopted November, 1966.

No. 48. Section 3, Article VIII. Re: **Public Special Indebtedness, How Authorized.** Adopted November, 1966.

No. 49. Adding Section 1, Article XXIX. Re: **Investments of Public Pension and Retirement Funds.** Adopted November, 1968.

No. 50. Adding Section 30, Article IV. Re: **Court of Appeals.** Adopted November, 1968.

No. 51. Adding Section 9, Article VIII. Re: **State Building Authority.** Adopted November, 1968.

No. 52. Section 15, Article II. Re: **Vacancies in Legislature and in Partisan County Elective Office.** Also amending Section 6, Article XI. Re: **Vacancies in Township, Precinct or Road District Office.** Adopted November, 1968.

No. 53. Adding Section 11, Article VII. Re: **Taxation Based on Actual Use.** Adopted November, 1968.

No. 54. Adding Section 1, Article XXX. Re: **Authorizing Compensation Increase During Term.** Adopted November, 1968.

No. 55. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.

No. 56. Section 24, Article II. Re: **Lotteries and Divorce.** Adopted November, 1972.

No. 57. Section 5, Article XI. Re: **County Government.** Adopted November, 1972.

No. 58. Section 16, Article XI. Re: **Combined City-County.** Adopted November, 1972.

No. 59. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.

No. 60. Section 1, Article VIII. Re: **State Debt.** Also amending Section 3, Article VIII. Re: **Special Indebtedness, How Authorized.** Approved November, 1972.

No. 61. Adding new Article XXXI. Re: **Sex Equality, Rights and Responsibilities.** Adopted November, 1972.

No. 62. Section 12, Article III. Re: **Veto Power.** Adopted November, 1974.

No. 63. Section 1, Article VI. Re: **Qualifications of Electors.** Adopted November, 1974.

No. 64. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1976.

No. 65. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Also amending Section 10, Article IV. Re: **Justices of the Peace.** Adopted November, 1976.

No. 66. Section 18, Article XII. Re: **Rates for Transportation.** Adopted November, 1977.

No. 67. Repealing Section 14, Article XII. Re: **Prohibition Against Combinations by Carriers.** Adopted November, 1977.

No. 68. Section 12, Article II. Re: **Legislative Sessions, When—Duration.** Adopted November, 1979.

No. 69. Section 13, Article II. Re: **Limitation on Members Holding Office in the State.** Adopted November, 1979.

No. 70. Adding Section 10, Article VIII. Re: **Residential Energy Conservation.** Adopted November, 1979.

No. 71. Adding Section 31, Article IV. Re: **Judicial Qualifications Commission—Removal, Censure, Suspension, or Retirement of Judges or Justices.** Adopted November, 1980.

No. 72. Sections 1 and 1(a), Article II. Re: **Legislative Powers, Where Vested and Initiative and Referendum, Signatures Required.** Adopted November, 1981.

No. 73. Adding Section 1, Article XXXII. Re: **Special Revenue Financing.** Adopted November, 1981.

No. 74. Adding Section 43, Article II. Re: **Redistricting.** Adopted November, 1983.

No. 75. Section 1, Article XXIX. Re: **May be Invested as Authorized by Law.** Adopted November, 1985.

No. 76. Adding Section 11, Article VIII. Re: **Agricultural Commodity Assessments—Development, Promotion, and Hosting.** Adopted November, 1985.

No. 77. Section 31, Article IV. Re: **Commission on Judicial Conduct—Removal, Censure, Suspension, or Retirement of Judges or Justices—Proceedings.** Adopted November, 1986.

No. 78. Section 1, Article XXVIII. Re: **Salaries for Legislators, Elected State Officials, and Judges—Independent Commission—Referendum.** Adopted November, 1986.

No. 79. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1986.

No. 80. Section 7, Article IV. Re: **Exchange of judges—Judge Pro Tempore.** Adopted November, 1987.

No. 81. Section 1, Article VII. Re: **Taxation.** Adopted November, 1988.

No. 82. Section 10, Article VIII. Re: **Residential Energy Conservation.** Adopted November, 1988.

No. 83. Section 3, Article VI. Re: **Who disqualified.** Also amending Section 1, Article XIII. Re: **Educational, reformatory and penal institutions.** Adopted November, 1988.

No. 84. Adding Section 35, Article I. Re: **Victims of Crimes—Rights.** Adopted November, 1989.

No. 85. Section 31, Article IV. Re: **Commission on Judicial Conduct.** Adopted November, 1989.

No. 86. Section 10, Article VIII. Re: **Energy and Water Conservation Assistance.** Adopted November, 1989.

No. 87. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Adopted November, 1993.

No. 88. Section 11, Article I. Re: **Religious Freedom.** Adopted November, 1993.

No. 89. Section 3, Article 4. Re: **Election and Terms of Supreme Court Judges.** Adopted November, 1995.

No. 90. Section 2, Article VII. Re: **Limitation on levies.** Adopted November, 1997.

No. 91. Section 10, Article VIII. Re: **Energy, water, or stormwater or sewer services conservation assistance.** Adopted November, 1997.

No. 92. Section 1, Article VIII. Re: **State debt.** Adopted November, 1999.

No. 93. Section 1, Article XXIX. Re: **May be invested as authorized by law.** Adopted November, 2000.

No. 94. Section 7, Article IV. Re: **Exchange of judges - Judge pro tempore.** Adopted November, 2001.

No. 95. Section 2, Article VII. Re: **Limitation on levies.** Adopted November, 2002.

No. 96. Section 15, Article II. Re: **Vacancies in legislative and in partisan county elective office.** Adopted November 2003.

No. 97. Section 31, Article IV. Re: **Commission on judicial conduct.** Adopted November, 2005.

No. 98. Section 1, Article VII. Re: **Taxation.** Adopted November 2006.

No. 99. Section 12, Article VII. Re: **Budget stabilization account.** Adopted November 2007.

No. 100. Section 29, Article II. Re: **Convict labor.** Adopted November 2007.

No. 101. Section 2, Article VII. Re: **Limitation of levies.** Adopted November 2007.

No. 102. Section 6, Article XVI. Re: **Investment of higher education permanent funds.** Adopted November 2007.