

## SIXTIETH DAY

House Chamber, Olympia, Thursday, March 11, 2010

The House was called to order at 10:00 a.m. by the Speaker (Representative Morris presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Amanda Bye and Lynette Bye. The Speaker (Representative Morris presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Martin Schlomer, Elim Evangelical Free Church, Puyallup.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

### RESOLUTIONS

HOUSE RESOLUTION NO. 4705, by Representatives Liias, O'Brien, Roach, Hurst, Van De Wege, Hope, Blake, Simpson, Kelley, Appleton, and Takko

WHEREAS, Our law enforcement officers willingly put themselves in harm's way every day in order to protect the citizens of this state; and

WHEREAS, The citizens of this state have a higher quality of life because they know that their safety is selflessly prioritized, without regard to their own safety, by the men and women who serve our state as law enforcement officers; and

WHEREAS, A number of our law enforcement officers have been ambushed and attacked by cowards whose lives would be protected without question by the very law enforcement officers they brutally and shamefully attack; and

WHEREAS, Washington State Patrol Trooper Scott Johnson was shot twice, including one shot to the head, on February 13, 2010, shortly before 1:00 a.m. along Highway 103 during a routine inspection of a vehicle about to be towed; and

WHEREAS, Washington State Patrol Trooper Scott Johnson was taken to a hospital in Long Beach and then to a hospital in Portland, Oregon, where doctors determined that his injuries were not life threatening;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives expresses its best wishes for the speedy recovery of Trooper Johnson and the swift apprehension of the perpetrator of this crime; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Trooper Johnson, his family, and the Washington State Patrol.

HOUSE RESOLUTION NO. 4705 was adopted.

The Speaker (Representative Morris presiding) called upon Representative Moeller to preside.

**HOUSE RESOLUTION NO. 4700, by Representatives Morris, Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Chopp, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier,**

**Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, and Wood**

WHEREAS, Washington State Representative Dave Quall, who will forever be known as "Coach Quall" has served the people of the 40th district with integrity, honor, and dedication since 1993; and

WHEREAS, His wife and trusted advisor Allene Quall, daughters Kim Brown and Kay Witt, and six cherished grandchildren have served as his guideposts and source of strength and inspiration; and

WHEREAS, Representative Quall retired from a distinguished career after 38 years as a teacher, counselor, and basketball coach, and as a Running Start counselor and men's basketball coach at Skagit Valley College; and

WHEREAS, His former students and players stay in touch and he follows their exploits and those of their children; and

WHEREAS, Coach Quall remembers details of virtually every high school basketball playoff game played in the last 50 years; and

WHEREAS, Representative Quall is highly regarded as a strong advocate for his district, often working quietly behind the scenes; and

WHEREAS, His proudest achievement is the creation of the Northwest Career and Technical Academy in Mount Vernon, and the satellite Marine Technology Center in Anacortes, opening September 2010; and

WHEREAS, Representative Quall has chaired the House Education Committee since 1999, providing a model of bipartisan policy development focused on the needs of students; and

WHEREAS, Representative Dave Quall epitomizes civility, treating every person with respect and allowing everyone an opportunity to voice an opinion, even if it causes a committee hearing to run a tad long; and

WHEREAS, Virtually every education agency and advocacy group in the state knows that their bill stands a greater chance of passing the House Education Committee if they bring students to testify at the hearing; and

WHEREAS, Coach Quall is a fierce advocate for all forms of alternative learning: Homeschooling, online learning, skills centers, Running Start, Preapprenticeships, so that every student is provided a pathway to fulfill his or her dreams and goals for the future; and

WHEREAS, Representative Dave Quall clearly honored his Constitutional "paramount duty" to provide a strong public education system by living by Ben Edlund's mantra, "If it's good for boys and girls, let's do it"; and

WHEREAS, Representative Quall lives his Mother's wise counsel: "Less said, less mended," so that when he stood to speak on the House floor everyone knew he had something important to say; and

WHEREAS, Representative Dave Quall is known far and wide as a "dapper" dresser. We knew spring had arrived and Sine Die was near when he broke out his cheerful yellow jacket. In fact, Governor Gary Locke once dubbed him "Mr. GQ"; and

WHEREAS, Dave truly does love long walks, movies of any sort, golf in any weather and is game for any adventure including roaming around Boston at dawn just to get a walk in before a long work day; and

WHEREAS, Often when he is on vacation he will call his LA with a request to set up a visit to an interesting school that he has found; and

WHEREAS, All members, lobbyists, and staff who wanted time with Dave knew to schedule a walk around the Lake; and

WHEREAS, Dave can always be found early each morning at Starbucks; and

WHEREAS, His eclectic mix of Elvis Presley's gospel songs, jazz or country playing in his office will be missed. This eclectic taste in music was also evident as many meetings were interrupted by the melodious Amazing Grace ring of his cell phone;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives and the State of Washington celebrate and honor the distinguished legislative career and accomplishments of Representative Dave Quall, and wish him the very best in his next endeavor, even though we will miss him deeply; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Washington State Representative Dave Quall and his family.

Representative Morris moved adoption of House Resolution No. 4700

Representatives Morris, Priest, Kessler, Johnson, Linville, Anderson, Haigh, Dammeier, Sullivan, Smith, Kenney and Hunt spoke in favor of the adoption of the resolution.

HOUSE RESOLUTION NO. 4700 was adopted.

#### MESSAGES FROM THE SENATE

March 10, 2010

Mr. Speaker:

The Senate has passed:

ENGROSSED SUBSTITUTE SENATE BILL 5899  
ENGROSSED SUBSTITUTE SENATE BILL 6364

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The President has signed:

ENGROSSED SUBSTITUTE SENATE BILL 6538  
SUBSTITUTE SENATE BILL 6548  
SECOND SUBSTITUTE SENATE BILL 6575  
SENATE BILL 6804

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 10, 2010

Mr. Speaker:

The Senate concurred in the House amendment to SUBSTITUTE SENATE BILL 6520 and passed the bill as amended by the House and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### MESSAGE FROM THE SENATE

March 10, 2010

Mr. Speaker:

The President ruled that the amendment is outside the "scope and object" of the measure. The Senate refuses to concur in the Hose amendment to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

There being no objection, the House advanced to the seventh order of business.

#### HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment. The rules were suspended and ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

#### SECOND READING

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267, by Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller and Honeyford)**

#### Regarding water right processing improvements.

The bill was read the second time.

Representative Blake moved the adoption of amendment (1634).

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** Water is an essential element for economic prosperity and it generates new, family-wage jobs and state revenues. It is the intent of the legislature to provide both water right applicants and the department of ecology with the necessary tools to expedite the processing of water right applications depending on the needs of the project and agency workload.

**NEW SECTION. Sec. 2.** Sufficient resources to support the department of ecology's water resource program are essential for effective and sustainable water management that provides certainty to processed applications. The department of ecology shall review current water resource functions and fee structures, and report to the legislature and the governor by September 1, 2010, on improvements to make the program more self-sustaining and efficient.

**Sec. 3.** RCW 90.03.265 and 2003 c 70 s 6 are each amended to read as follows:

(1)(a) Any applicant for a new withdrawal or a change, transfer, or amendment of a water right pending before the department(§) may initiate a cost-reimbursement agreement with the department to provide expedited review of the application. A cost-reimbursement agreement may (~~only~~) be initiated under this section if the applicant agrees to pay for, or as part of a cooperative effort agrees to pay for, the cost of processing his or her application and all other applications from the same source of supply which must be acted upon before the applicant's request because they were filed prior to the date of when the applicant filed.

(b) The requirement to pay for the cost of other applications under (a) of this subsection does not apply to an application for a new appropriation that would not diminish the water available to earlier pending applicants for new appropriations from the same source of supply.

(c) The requirement to pay for the cost of processing other applications under (a) of this subsection does not apply to an application for a change, transfer, or other amendment that would not diminish the water available to earlier pending applicants for changes or transfers from the same source of supply.

(d) In determining whether an application would not diminish the water available to earlier pending applicants, the department shall consider any water impoundment or other water resource management mitigation technique proposed by the applicant under RCW 90.03.255 or 90.44.055.

(e) The department may enter into cost-reimbursement agreements provided resources are available and shall use the process established under RCW 43.21A.690 for entering into cost-reimbursement agreements. The department's share of work related to a cost-reimbursement application, such as final certificate approval, must be prioritized within the framework of other water right processing needs and as determined by agency rule.

(f) Each individual applicant is responsible for his or her own appeal costs that may result from a water right decision made by the department under this section. In the event that the department's approval of an application under this section is appealed under chapter 43.21B RCW by a third party, the applicant for the water right in question must reimburse the department for the cost of defending the decision before the pollution control hearings board unless otherwise agreed to by the applicant and the department. If an applicant appeals either an approval or a denial made by the department under this section, the applicant is responsible only for its own appeal costs.

(2) In pursuing a cost-reimbursement project, the department must determine the source of water proposed to be diverted or withdrawn from, including the boundaries of the area that delimits the source. The department must determine if any other water right permit applications are pending from the same source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department finds they are hydraulically connected. The department shall consider technical information submitted by the applicant in making its determinations under this subsection. The department may recover from a cost-reimbursement applicant its own costs in making the same source determination under this subsection.

(3) Upon request of the applicant seeking cost-reimbursement processing, the department may elect to initiate a coordinated cost-reimbursement process. To initiate this process, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that cost-reimbursement processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on a cost-reimbursement basis;

(d) Provide an estimate of how long the cost-reimbursement process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the cost-reimbursement process.

(4) The applicant initiating the cost-reimbursement request must pay for the cost of the determination under subsections (2) and (3) of this section and other costs necessary for the initial phase of cost-reimbursement processing. The cost for each applicant for conducting processing under a coordinated cost-reimbursement agreement must be based primarily on the proportionate quantity of water requested by each applicant. The cost may be adjusted if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity.

(5)(a) Only the department may approve or deny a water right application processed under this section, and such a final decision remains solely the responsibility and function of the department. The department retains full authority to amend, refuse, or approve any work product provided by any consultant under this section. The department may recover its costs related to: (i) The review of a consultant to ensure that no conflict of interest exists; (ii) the management of consultant contracts and cost-reimbursement agreements; and (iii) the review of work products provided by participating consultants.

(b) For any cost-reimbursement process initiated under subsection (1) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned such a prequalified consultant by the department.

(c) For any coordinated cost-reimbursement process initiated under subsection (3) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned a prequalified consultant by the department.

(d) In lieu of having one or more of the work products performed by a prequalified consultant listed under subsection (7) of this section, the department may, at its discretion, recognize specific work completed by an applicant or an applicant's consultant prior to the initiation of cost-reimbursement processing. The department may also, at its discretion, authorize the use of such a consultant to perform a specific scope of the work that would otherwise be assigned to prequalified consultants listed under subsection (7) of this section.

(e) At any point during the cost-reimbursement process, the department may request or accept technical information, data, and analysis from the applicant or the applicant's consultant to support the cost-reimbursement process or the department's decision on the application.

(6) The department is authorized to adopt rules or guidance providing minimum qualifications and standards for any consultant's submission of work products under this section, including standards for submission of technical information, scientific analysis, work product documentation, review for conflict of interest, and report presentation that such a consultant must meet.

(7) The department must provide notice to potential consultants of the opportunity to be considered for inclusion on the list of cost-reimbursement consultants to whom work assignments will be made. The department must competitively select an appropriate number of consultants who are qualified by training and experience to investigate and make recommendations on the disposition of water right applications. The prequalified consultant list must be renewed at least every six years, though the department may add qualified cost-reimbursement consultants to the list at any time. The department must enter a master contract with each consultant selected and thereafter make work assignments based on availability and qualifications.

(8) The department may remove any consultant from the consultant list for poor performance, malfeasance, or excessive complaints from cost-reimbursement participants. The department

may interview any cost-reimbursement consultant to determine whether the person is qualified for this work, and must spot-check the work of consultants to ensure that the public is being competently served.

(9) When a prequalified cost-reimbursement consultant from the department's list described in subsection (7) of this section is assigned or selected to investigate an application or set of applications, the consultant must document its findings and recommended disposition in the form of written draft technical reports and preliminary draft reports of examination. Within two weeks of the department receiving draft technical reports and preliminary draft reports of examination, the department shall provide the applicant such documents for review and comment prior to their completion by the consultant. The department shall consider such comments by the applicant prior to the department's issuance of a draft report of examination. The department may modify the preliminary draft reports of examination submitted by the consultant. The department's decision on a permit application is final unless it is appealed to the pollution control hearings board under chapter 43.21B RCW.

(10) If an applicant elects not to participate in a cost-reimbursement process, the application remains on file with the department, retains its priority date, and may be processed under regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW.

**NEW SECTION. Sec. 4.** A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing account is created in the state treasury. All receipts from the fees collected under sections 5, 7, and 12 of this act must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may only be used to support the processing of water right applications for a new appropriation, change, transfer, or amendment of a water right as provided in this chapter and chapters 90.42 and 90.44 RCW or for the examination, certification, and renewal of certification of water right examiners as provided in section 7 of this act.

**NEW SECTION. Sec. 5.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that the application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

**NEW SECTION. Sec. 6.** A new section is added to chapter 90.03 RCW to read as follows:

The department must post notice on its web site and provide additional electronic notice and opportunity for comment to affected federally recognized tribal governments concurrently when providing notice to applicants under RCW 90.03.265 and sections 5 and 12 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall establish and maintain a list of certified water right examiners. Certified water right examiners on the list are eligible to perform final proof examinations of permitted water uses leading to the issuance of a water right certificate under RCW 90.03.330. The list must be updated annually and must be made available to the public through written and electronic media.

(2) In order to qualify, an individual must be registered in Washington as a professional engineer, professional land surveyor, or registered hydrogeologist, or an individual must demonstrate at least five years of applicable experience to the department, or be a board member of a water conservancy board. Qualified individuals must also pass a written examination prior to being certified by the department. Such an examination must be administered by either the department or an entity formally approved by the department. Each

certified water right examiner must demonstrate knowledge and competency regarding:

- (a) Water law in the state of Washington;
- (b) Measurement of the flow of water through open channels and enclosed pipes;
- (c) Water use and water level reporting;
- (d) Estimation of the capacity of reservoirs and ponds;
- (e) Irrigation crop water requirements;
- (f) Aerial photo interpretation;
- (g) Legal descriptions of land parcels;
- (h) Location of land and water infrastructure through the use of maps and global positioning;
- (i) Proper construction and sealing of well bores; and
- (j) Other topics related to the preparation and certification of water rights in Washington state.

(3) Except as provided in subsection (9) of this section, upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must secure the services of a certified water right examiner who has been tested and certified by the department. The examiner shall carry out a final examination of the project to verify its completion and to determine and document for the permit holder and the department the amount of water that has been appropriated for beneficial use, the location of diversion or withdrawal and conveyance facilities, and the actual place of use. The examiner shall take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially used. The examiner shall take photographs of the facilities to document the use or uses of water and the photographs must be submitted with the examiner's report to the department. The department shall specify the format and required content of the reports and may provide a form for that purpose.

(4) The department may suspend or revoke a certification based on poor performance, malfeasance, failure to acquire continuing education credits, or excessive complaints from the examiner's customers. The department may require the retesting of an examiner. The department may interview any examiner to determine whether the person is qualified for this work. The department shall spot-check the work of examiners to ensure that the public is being competently served. Any person aggrieved by an order of the department including the granting, denial, revocation, or suspension of a certificate issued by the department under this chapter may appeal pursuant to chapter 43.21B RCW.

(5) The decision regarding whether to issue a final water right certificate is solely the responsibility and function of the department.

(6) The department shall make its final decision under RCW 90.03.330 within sixty days of the date of receipt of the proof of examination from the certified water right examiner, unless otherwise requested by the applicant or returned for correction by the department. The department may return an initial proof of examination for correction within thirty days of the department's receipt of such initial proof from a certified water right examiner. Such proof must be returned to both the certified water right examiner and the applicant. Within thirty days of the department's receipt of such returned proof from the certified water right examiner, the department shall make its final decision under RCW 90.03.330, unless otherwise requested by the applicant.

(7) Each certified water right examiner must complete eight hours annually of qualifying continuing education in the water resources field. The department shall determine and specify the qualifying continuing education and shall inform examiners of the opportunities. The department shall track whether examiners are current in their continuing education and may suspend the certification of an

examiner who has not complied with the continuing education requirement.

(8) Each certified water right examiner must be bonded for at least fifty thousand dollars.

(9) The department may waive the requirement to secure the services of a certified water right examiner in situations in which the department has already conducted a final proof of examination or finds it unnecessary for purposes of issuing a certificate of water right.

(10) The department shall establish and collect fees for the examination, certification, and renewal of certification of water right examiners. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. Pursuant to RCW 43.135.055, the department is authorized to set fees for examination, certification, and renewal of certification for water right examiners.

(11) The department may adopt rules appropriate to carry out the purposes of this section.

**Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read as follows:

(1)(a) Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry ~~((on April 20, 1987,))~~ may submit to the department of ecology for filing ~~(,)~~ an amendment to such a statement of claim if the submitted amendment is based on:

~~((1))~~ (i) An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such right in the original claim;

~~((2))~~ (ii) A change in circumstances not foreseeable at the time the original claim was filed, if such change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or

~~((3))~~ (iii) The amendment is ministerial in nature.

(b) The department shall accept any such submission and file the same in the registry unless the department by written determination concludes that the requirements of (a)(i), (ii), or (iii) of this subsection ~~((1), (2), or (3) of this section))~~ have not been satisfied.

(2) In addition to subsection (1) of this section, a surface water right claim may be changed or transferred in the same manner as a permit or certificate under RCW 90.03.380, and a water right claim for groundwater may be changed or transferred as provided under RCW 90.03.380 and 90.44.100.

(3) Any person aggrieved by a determination of the department may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed or approved under this section.

**Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c)

where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

(6) This section does not apply to a water right involved in an approved local water plan created under RCW 90.92.090 or a banked water right under RCW 90.92.070.

**Sec. 10.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal

from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

**NEW SECTION. Sec. 11.** A new section is added to chapter 90.44 RCW to read as follows:

Applications to appropriate groundwater under a cost-reimbursement agreement must be processed in accordance with RCW 90.03.265 when an applicant requests the assignment of a cost-reimbursement consultant as provided in RCW 43.21A.690.

**NEW SECTION. Sec. 12.** A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

**NEW SECTION. Sec. 13.** A new section is added to chapter 90.03 RCW to read as follows:

Nothing in this act affects or diminishes the processing of water right applications under any other existing authority, including but not limited to existing authority for the priority processing of applications by the department.

**NEW SECTION. Sec. 14.** Section 9 of this act expires June 30, 2019.

**NEW SECTION. Sec. 15.** Section 10 of this act takes effect June 30, 2019.

**NEW SECTION. Sec. 16.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Representatives Blake and Chandler spoke in favor of the adoption of the amendment.

Amendment (1634) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representative Blake spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 6267, as amended by the House.

### MOTION

On motion of Representative Hinkle, Representative Condotta was excused.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6267, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Simpson.

Excused: Representative Condotta.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267, as amended by the House, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 9, 2010

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 6604 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

### HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment. The rules were suspended and ENGROSSED SUBSTITUTE SENATE BILL NO. 6604 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

**SECOND READING**

**ENGROSSED SUBSTITUTE SENATE BILL NO. 6604, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Hobbs, King, McAuliffe, Oemig, Tom, Brandland, Holmquist, McDermott and Kline)**

**Providing flexibility in the education system.**

Representative Quall moved the adoption of amendment (1646).

0)

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.655.061 and 2009 c 524 s 5 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in

performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the SAT or the ACT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the PSAT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in



calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection (~~((12))~~).

~~((a))~~ Student learning plans are required for eighth ~~((through twelfth))~~ grade students who were not successful on any or all of the content areas of the ~~((Washington))~~ state assessment ~~((for student learning))~~ during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

~~((i))~~ (a) The student's results on the ~~((Washington))~~ state assessment ~~((of student learning))~~;

~~((ii))~~ (b) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

~~((iii))~~ (c) Any credit deficiencies;

~~((iv))~~ (d) The student's attendance rates over the previous two years;

~~((v))~~ (e) The student's progress toward meeting state and local graduation requirements;

~~((vi))~~ (f) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;

~~((vii))~~ (g) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;

~~((viii))~~ (h) The alternative assessment options available to students under this section and RCW 28A.655.065;

~~((ix))~~ (i) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

~~((x))~~ (j) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

((b) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.

(i) The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.)"

Correct the title.

Representatives Quall and Priest spoke in favor of the adoption of the amendment.

Amendment (1646) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Quall and Priest spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6604, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6604, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representative Condotta.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6604, as amended by the House, having received the necessary constitutional majority, was declared passed.

### SECOND READING

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6504, by Senate Committee on Ways & Means (originally sponsored by Senator Hargrove)**

**Reducing crime victims' compensation benefits and eligibility. Revised for 2nd Substitute: Modifying provisions of the crime victims' compensation program.**

The House resumed consideration from Day 59, March 10, 2010.

Representative Ross moved the adoption of amendment (1602).

Representatives Ross and Hurst spoke in favor of the adoption of the amendment.

Representative Cody spoke against the adoption of the amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Moeller presiding) divided the House. The result was 63 - YEAS; 34 - NAYS.

Amendment (1602) was adopted.

Amendments (1620) and (1651) were ruled out of order.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Hurst and Ross spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 6504.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6504, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Lias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representative Condotta.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6504, having received the necessary constitutional majority, was declared passed.

### THIRD READING

The House resumed consideration from Day 59, March 10, 2010.

The rules were suspended and SENATE BILL NO. 6870 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

### SECOND READING

**ENGROSSED SENATE BILL NO. 6870, by Senator Hargrove**

**Containing costs for services to sexually violent predators.**

The bill was read the second time.

Representative Kagi moved the adoption of amendment (1647).

On page 1, line 12, after "prejudiced." insert the following "The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf."

On page 4, at the beginning of line 15, insert the following "The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf."

On page 6, line 10, after "rules" strike "for the payment of" and insert "to contain costs relating to reimbursement for"

Representatives Kagi and Dammeier spoke in favor of the adoption of the amendment.

Amendment (1647) was adopted.

### MOTION

On motion of Representative Kagi, amendment (1638) was withdrawn.

Representative Hudgins moved the adoption of amendment (1639).

On page 6, beginning on line 15, strike all of section 4 Correct the title.

Representatives Hudgins, Hasegawa, Ross and Priest spoke in favor of the adoption of the amendment.

Representatives Kagi and Green spoke against the adoption of the amendment.

There being no objection, the House deferred action on SENATE BILL NO. 6870, and the bill held its place on the second reading calendar.

There being no objection, the House reverted to the fourth order of business.

### INTRODUCTIONS AND FIRST READING

ESSB 5899 by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Franklin, Kastama, Shin, Marr, McAuliffe, Haugen, Brown, Berkey, Prentice, Fairley, Regala, Keiser, Eide, Rockefeller, Murray, Hatfield, Hargrove, Sheldon, Oemig and Kline)

AN ACT Relating to providing a business and occupation tax credit for qualified employment positions; adding a new section to chapter 82.04 RCW; and providing an effective date.

ESSB 6364 by Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Brandland, Prentice and Zarelli)

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 90.71.370, 79A.15.030, and 39.10.210; amending 2009 c 497 ss 1005, 1013, 1023, 1029, 1036, 1031, 1034, 1035, 1039, 1040, 1048, 1014, 1017, 1041, 1030, 1046, 1042, 1019, 1054, 1055, 1071, 1060, 1061, 1063,

1064, 1068, 1073, 1081, 1065, 1086, 1087, 1091, 1093, 2001, 2002, 2034, 2037, 2038, 3007, 3020, 3049, 3052, 3054, 3047, 3060, 3059, 3039, 3085, 3168, 3157, 3169, 3172, 3178, 3182, 3197, 3203, 3102, 3106, 3109, 3133, 3135, 3117, 5008, 5002, 5014, 5007, 5009, 5013, 5024, 5027, 5029, 5028, 5030, 5035, 5023, 5041, 5037, 5039, 5055, 5047, 5054, 5056, 5057, 5061, 5065, 5068, 5064, 5079, 5080, 5083, 5092, 5094, 5093, 5097, 5104, 5100, 5111, 5115, 5116, 5118, 5120, 5127, 5135, 5151, 5165, 5168, 5171, 5174, 5176, 5177, 5178, 5191, 5192, 5210, 5181, 5213, 5195, 5223, 5190, 5224, 6009, and 6004 (uncodified); amending 2008 c 5 s 1 (uncodified); adding new sections to 2009 c 497 (uncodified); creating a new section; repealing 2009 c 497 s 5224 (uncodified); and declaring an emergency.

There being no objection, ENGROSSED SUBSTITUTE SENATE BILL NO. 5899 and ENGROSSED SUBSTITUTE SENATE BILL NO. 6364 were read the first time, and under suspension of the rules were placed on the second reading calendar.

#### MESSAGE FROM THE SENATE

March 11, 2010

Mr. Speaker:

The Senate insists on its position on SUBSTITUTE HOUSE BILL NO. 2776 and asks the House to concur, and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House insisted on its position in its amendment to SUBSTITUTE HOUSE BILL NO. 2776 and asked the Senate to recede therein.

#### MESSAGE FROM THE SENATE

March 11, 2010

Mr. Speaker:

The Senate refuses to concur in the House amendment to SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6508 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position in its amendment to SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6508 and asked the Senate to concur therein.

The Speaker (Representative Moeller presiding) called upon Representative Cody to preside.

#### MESSAGE FROM THE SENATE

March 11, 2010

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2436 with the following amendment:

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

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

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

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

(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve(~~(- PROVIDED FURTHER, That)~~). However, these provisions (~~(shall)~~) do not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

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

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

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

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

((Exclusions:))

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

or other vehicles designed for the transportation of persons or property to which machinery has been attached.

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

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

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

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

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

(i) Presents an unexpired Washington state driver's license; or

(ii) Certifies that he or she is:

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

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

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

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

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

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

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

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

On page 1, line 1 of the title, after "fraud;" strike the remainder of the title and insert "amending RCW 46.16.010; prescribing penalties; making an appropriation; and providing an effective date."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2436 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Moeller spoke in favor of the passage of the bill.

The Speaker (Representative Cody presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2436, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2436, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Lias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representative Condotta.

SECOND SUBSTITUTE HOUSE BILL NO. 2436, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 11, 2010

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876, and under suspension of the rules returned ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876 to second reading for purpose of amendment. The Senate further adopted amendment 2876-S.E AMS KEIS S5445.1 and passed the measure as amended:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 18.22 RCW to read as follows:

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

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

(a)(i) Dosing criteria, including:

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

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

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

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

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

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

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

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

(d) Guidance on tracking the use of opioids.

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

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

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

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

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

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

(a)(i) Dosing criteria, including:

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

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

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

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

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

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

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

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

(d) Guidance on tracking the use of opioids.

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

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

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

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

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

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

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

(a)(i) Dosing criteria, including:

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

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

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

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

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

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

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

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

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

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

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

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

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

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

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

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

(a)(i) Dosing criteria, including:

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

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

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

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

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

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

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

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

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

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

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

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

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

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

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

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

(a)(i) Dosing criteria, including:

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

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

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

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

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

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

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

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

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

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

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

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

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

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

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

(a)(i) Dosing criteria, including:

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

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

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

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

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

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

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

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

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

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

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

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

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

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

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

(a)(i) Dosing criteria, including:

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

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

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

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

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

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

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

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

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

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

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

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

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

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

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

On page 1, line 1 of the title, after "management;" strike the remainder of the title and insert "adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876 and advanced the bill, as amended by the Senate, to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Moeller and Hinkle spoke in favor of the passage of the bill.

The Speaker (Representative Cody presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2876, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2876, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Klippert.

Excused: Representative Condotta.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Substitute House Bill No. 2876.

Kirk Pearson, 39th District

The Speaker (Representative Cody presiding) called upon Representative Moeller to preside.

#### MESSAGE FROM THE SENATE

March 11, 2010

Mr. Speaker:

The Senate insists on its position on SUBSTITUTE HOUSE BILL NO. 3124 and asks the House to concur, and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 3124 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Roberts and Haler spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 3124, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 3124, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representative Condotta.

SUBSTITUTE HOUSE BILL NO. 3124, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 10, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 3178 with the following amendment:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.105 RCW to read as follows:

(1) The legislature finds that the provision of information technology in state government lacks strategic coordination, transparency, and meaningful enterprise-wide direction and oversight. It is no longer economically sustainable or technically feasible for state agencies to obtain and provide large-scale, commonly utilized information technology products and services on an individual, agency- by-agency basis without coordination. Instead, the state needs a strong, enterprise-based information technology strategy to ensure the public's needs are being met and the state is receiving the highest quality information technology products and services at the best price from public or private providers. Developing a strong enterprise-wide strategy also includes establishing clear lines of authority and accountability within state agencies so that those services unique to individual agencies receive the support required to effectively and efficiently provide services to citizens. To accomplish these objectives, the state needs to develop an open, transparent process for determining the total cost of ownership for the information technology products and services it provides, and to provide such information in an easily accessible, public fashion. It is in the state's interest to ensure that the wide range of disparate networks, systems, services, and structures across state government become more closely coordinated, organized, and structured. This type of coordinating effort is already underway in the area of higher education through the efforts of the higher education technology transformation task force and informally within other areas. When more transparent technical and financial information is readily available, the state can make sound policy decisions about what information technology services should be provided centrally on a shared services basis, and what products and services may be best suited for either contracting with private providers or for maintenance at the agency level. Furthermore, if attractive pricing models and service level agreements are developed for enterprise-based information technology services, the legislative and judicial branches will have an incentive to participate in those services as well.

(2) It is the intent of the legislature to organize, consolidate, and, where appropriate, contract with private providers for technology systems and resources in a strategic fashion that is based upon sound, objective, nonpolitical, and independent technical and financial criteria. The state needs to develop a clear, enterprise-based statewide strategy for information technology to ensure that there is transparency and accountability regarding how information technology resources are being allocated, how decisions are being made, and who is accountable for on-time, on-budget delivery.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.105 RCW to read as follows:

(1) State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the office of financial management evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

(2) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.88 RCW to read as follows:

(1) As part of the biennial budget process, the office of financial management shall collect from agencies, and agencies shall provide,



information to produce reports, summaries, and budget detail sufficient to allow review, analysis, and documentation of all current and proposed expenditures for information technology by state agencies. Information technology budget detail must be included as part of the budget submittal documentation required pursuant to RCW 43.88.030.

(2) The office of financial management must collect, and present as part of the biennial budget documentation, information for all existing information technology projects as defined by information services board policy. The office of financial management must work with the department of information services to maximize the ability to draw this information from the information technology portfolio management data collected by the department of information services pursuant to RCW 43.105.170. Connecting project information collected through the portfolio management process with financial data developed under subsection (1) of this section provides transparency regarding expenditure data for existing technology projects.

(3) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan identifying proposed large information technology projects. This plan must be presented using a method similar to the capital budget, identifying project costs through stages of the project and across fiscal periods and biennia from project initiation to implementation. This information must be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(4) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment.

**Sec. 4.** RCW 43.88.560 and 1992 c 20 s 7 are each amended to read as follows:

The director of financial management shall establish policies and standards governing the funding of major information technology projects as required under RCW 43.105.190(2). The director of financial management shall also direct the collection of additional information on information technology projects and submit an information technology plan as required under section 3 of this act.

**Sec. 5.** RCW 43.105.041 and 2009 c 486 s 13 are each amended to read as follows:

(1) The board shall have the following powers and duties related to information services:

(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data. The board shall coordinate with the office of financial management to develop contracting standards for information technology acquisition and purchased services and must work with state agencies to ensure deployment of standardized contracts;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the

state's common vendor registration and bid notification system. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop statewide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director;

(i) To review and approve that portion of the ~~((department's))~~ budget ~~((requests))~~ that ~~((provides for))~~ may provide independent, technical staff support to the board; and

(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(3)(a) The board, in consultation with the K-20 board, has the duty to govern, operate, and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; procurement of shared network services and equipment; and resolving user/provider disputes concerning technical matters. The board shall

delegate general operational and technical oversight to the K-20 network technical steering committee as appropriate.

(b) The board has the authority to adopt rules under chapter 34.05 RCW to implement the provisions regarding the technical operations and conditions of use of the K-20 network.

(4) The board shall review all information technology efforts under its purview based on independent technical and financial information, regardless of whether the projects or services are being provided by public or private providers. This review must be conducted by independent, technical staff support, subject to funds appropriated for this specific purpose.

(5) In reviewing these efforts, the board, in consultation with the office of financial management, shall review state agency information technology budgets. The board may acquire project management assistance to assist in its efforts under this act.

**Sec. 6.** RCW 43.105.180 and 1999 c 80 s 11 are each amended to read as follows:

~~((Upon request of the office of financial management,))~~ (1) The department, in coordination with the information services board and the office of financial management, shall evaluate agency budget requests for major information technology projects identified under RCW 43.105.190, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The department shall submit recommendations for funding all or part of such requests to the office of financial management and to the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives. The department shall also submit recommendations regarding consolidation of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The department, with the advice and approval of the office of financial management and the information services board, shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. These budget requests shall be made in the context of an agency's information technology portfolio; technology initiatives underlying budget requests are subject to board review. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining and gathering of business and technical requirements, and services, costs, and benefits.

(3) For the purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

**NEW SECTION. Sec. 7.** A new section is added to chapter 2.68 RCW to read as follows:

The administrative office of the courts, under the direction of the judicial information system committee, shall:

(1) Develop a judicial information system information technology portfolio consistent with the provisions of RCW 43.105.172;

(2) Participate in the development of an enterprise-based statewide information technology strategy as defined in section 10 of this act;

(3) Ensure the judicial information system information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the judicial information system information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and the department of information services.

**NEW SECTION. Sec. 8.** A new section is added to chapter 44.68 RCW to read as follows:

The legislative service center, under the direction of the joint legislative systems committee and the joint legislative systems administrative committee, shall:

(1) Develop a legislative information technology portfolio consistent with the provisions of RCW 43.105.172;

(2) Participate in the development of an enterprise-based statewide information technology strategy as defined in section 10 of this act;

(3) Ensure the legislative information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the legislative information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and the department of information services.

**Sec. 1.** RCW 43.105.160 and 2005 c 319 s 110 are each amended to read as follows:

(1) The department shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services;

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190. At a minimum, the portion of the report regarding major technology projects must include:

(i) Final total cost of ownership budget data for the entire life-cycle of the project, including capital and operational costs, broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project, particularly as it relates to operating budget savings;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

~~((v))~~ (v) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

~~((e))~~ (e) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives. The major technology section of the report must examine major information technology projects completed in the previous biennium to determine the performance of the implementing agency, cost and value effectiveness, and timeliness and other performance metrics necessary to assess the quality and value of the investment. The report must also examine projects two years after completion for progress toward meeting performance goals and operating budget savings. The first report is due December 15, 2011, and every two years thereafter.

NEW SECTION. Sec. 9. A new section is added to chapter 43.105 RCW to read as follows:

(1) The board, in consultation with the department and the office of financial management, shall develop an enterprise-based strategy for information technology in state government informed by information technology expenditure information collected from state agencies pursuant to section 3 of this act.

(2) In developing an enterprise-based strategy for the state, the board is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(a) Developing personal computer replacement policies for the state, with consideration given to alternative models of personal computer usage for state government use, such as thin client, software as a service, browser-based functionality, mobile computing, and other models that are less dependent upon traditional computing;

(b) Pursuing shared services initiatives across functional areas, which may include services such as e-mail, telephony, and data storage;

(c) Pursuing pilot programs, such as a pilot to demonstrate the value of application management services, to identify opportunities to achieve operational efficiencies;

(d) Developing data storage policies and record retention requirements and schedules for state agencies, in consultation with the office of the secretary of state, the state archivist, and the state records committee, where appropriate;

(e) Reviewing existing software maintenance contracts to identify opportunities to renegotiate the price of those contracts or the level of service; and

(f) Partnering with private providers for commonly utilized information technology products and services.

(3) The legislative and judicial branches are encouraged to coordinate with, and participate in, shared services initiatives, pilot programs, and development of the enterprise-based strategy, where appropriate.

NEW SECTION. Sec. 2. (1) The office of financial management, with the assistance of the department of information services, must identify areas of potential savings that will achieve the savings identified in the omnibus appropriations act. These areas shall include, but not be limited to, wireless service, telephony, desktop computers, electronic mail services, and data storage.

(2) The office of financial management shall work with the appropriate state agencies, including the department of information services, to generate savings that arise pursuant to this act from the improved acquisition and delivery of information technology products and services. To accomplish this objective, state agencies must provide timely, accurate total cost of ownership data to the office of financial management upon request regarding information technology products and services. The savings must be at least equal to those specified in the omnibus appropriations act. The office of financial management shall reduce agency allotments by the amounts specified

in the omnibus appropriations act to reflect these savings. The allotment reductions shall be placed in unallotted status and remain unexpended.

(3) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

(4) This section expires June 30, 2011.

NEW SECTION. Sec. 3. A new section is added to chapter 43.105 RCW to read as follows:

(1) The department, in collaboration with state agencies, shall conduct an inventory from existing data sets of information technology assets owned or leased by state agencies. This inventory must be used to inform the development of a state information technology asset management process. Prior to implementation of any state information technology asset management process, the department must submit its recommended approach, including an estimate of the associated implementation costs, to the board for approval.

(2) For the purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official, and offices in the legislative and judicial branches of state government, notwithstanding the provisions of RCW 44.68.105.

NEW SECTION. Sec. 4. (1) The office of financial management, in consultation with the department of information services and the information services board, shall develop and execute a pilot program to contract with one or more private providers for the delivery, support, maintenance, and operation of information technology through application managed services or other similar programs across one or more functional areas of information technology, or for the information technology needs of one or more state agencies. In selecting a private provider for the pilot program, the office of financial management must engage in a competitive bid process or request for proposals process.

(2) The objective of the pilot program will be to assess: (a) Each agency's information technology application portfolio; (b) opportunities to use best practices and tools; and (c) whether the agency should proceed with application managed services or other similar programs based on the results of the assessment.

(3) The department of information services and the office of financial management shall prepare a report of the findings of the pilot assessments by September 1, 2010, and a final report of the pilot results by June 30, 2011. The final report must include the following: Identification of short and long-term costs, risks, benefits, and other organizational impacts of implementing application managed services or other similar programs within the pilot agencies. The final report must also identify opportunities for other state agencies to benefit from application managed services or other similar programs. The results of the pilot program must be provided to the information services board, the governor, the senate committee on ways and means, and the house of representatives committee on ways and means.

NEW SECTION. Sec. 5. The department of information services shall, by November 1, 2010, report on the efforts to develop a centralized information project management office pursuant to section 142, chapter 522, Laws of 2007. The report shall address the current status of the effort, lessons learned, and recommended changes to the program.

NEW SECTION. Sec. 6. (1) The office of financial management shall contract with an independent consultant to:

(a) Conduct a technical and financial analysis of the state's plan for the consolidated state data center and office building; and

(b) Develop a strategic business plan outlining the various options for use of the site that maximize taxpayer value consistent with the terms of the finance lease and related agreements.

(2) The analysis must consist of, at a minimum, an assessment of the following issues:

(a) The total capital and operational costs for the proposed data center and office building;

(b) The occupancy rate for the consolidated state data center, as compared to total capacity, that will result in revenue exceeding total capital and operating expenses;

(c) The potential reallocation of resources that could result from the consolidation of state data centers and office space; and

(d) The potential return on investment for the consolidated state data center and office building that may be realized without impairing any existing contractual rights under the terms of the financing lease and related agreements.

(3) This review must build upon the analysis and migration strategy for the consolidated state data center being prepared for the department of information services.

(4) The strategic plan must be submitted to the governor and the legislature by December 1, 2010.

**NEW SECTION. Sec. 7.** (1) The department of information services and the office of financial management shall review existing statutes, procedures, data, and organizational structures to identify opportunities to increase efficiency, customer service, and transparency in information technology. This effort shall include:

(a) Identifying and addressing financial data needed to comprehensively evaluate information technology spending from an enterprise perspective;

(b) A review of best practices in information technology governance, including private sector practices and lessons learned from other states; and

(c) A review of existing statutes regarding information technology governance, standards, and financing to identify inconsistencies between current law and best practices.

(2) The department of information services and the office of financial management shall report findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2010.

**NEW SECTION. Sec. 8.** RCW 43.105.017 (Legislative intent) and 1992 c 20 s 6, 1990 c 208 s 2, & 1987 c 504 s 2 are each 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, 2010, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "government;" strike the remainder of the title and insert "amending RCW 43.88.560, 43.105.041, 43.105.180, and 43.105.160; adding new sections to chapter 43.105 RCW; adding a new section to chapter 43.88 RCW; adding a new section to chapter 2.68 RCW; adding a new section to chapter 44.68 RCW; creating new sections; repealing RCW 43.105.017; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 3178 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Carlyle and Alexander spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 3178, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 3178, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Wood and Mr. Speaker.

Voting nay: Representatives McCoy, Simpson and Williams.

Excused: Representative Condotta.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3178, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 10, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 3209 with the following amendment:

0)

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the Washington state ferry system is a critical component of the state's highway system. The legislature further finds that ferry system revenues are inadequate to support the capital requirements of aging vessels and terminals, and operating cost growth is fast outpacing the growth of fare revenue and gas tax revenue dedicated to the ferry system. As such, and drawing on more than four consecutive years of legislative analysis and operating policy reforms, the legislature finds that a realignment of the ferry compensation policy framework is an appropriate next step toward the legislature's long-term goal of assuring sustainable, cost-effective ferry service. The legislature further intends to address increased costs of ferry system operations in a manner that balances the interests of the ferry system, ferry workforce, and fare payers. It is the intent of the legislature that final recommendations from the joint transportation committee ferry study, submitted to the legislature during the 2009 regular legislative session, be enacted by the legislature and implemented by the department of transportation as soon as practicable in order to benefit from the efficiencies and cost savings identified in the recommendations. It is also the intent of the legislature to make various additional policy changes aimed at further efficiencies and cost savings. Since the study began in 2006, recommendations have been made with regard to long range planning and implementing the

most efficient and effective balance between ferry capital and operating investments. It is intended that this act, the 2009-2011 omnibus transportation appropriations act, and subsequent transportation appropriations acts serve as vehicles for enacting these recommendations in order to maximize the utilization of existing capacity and to make the most efficient use of existing assets and tax dollars.

**NEW SECTION. Sec. 2.** (1) The office of financial management shall convene an expert panel of ferry operators to conduct a management review of the Washington state department of transportation, ferries division. The panel must have between three and five members and must represent both management and operations specialists, as well as public and private ferry operators that can bring best practices and state-of-the-art knowledge to this effort. The panel shall review past studies, conduct its own review, and make recommendations of the ferries division's management. The study must be completed and submitted to the transportation committees of the senate and house of representatives by August 1, 2010, and must include:

(a) A review and comment on the studies and audits conducted on the ferries division over the past four years in areas of overhead and management organization structure and costs, maintenance practices, scheduling, and prioritization of preservation of vessels and terminals to ensure they represent current best practices;

(b) A report on the implementation of the recommendations in the studies and audits described in (a) of this subsection, and a report on their effectiveness compared to national best practices; and

(c) A review and report on the procedures for crew and service scheduling and recommendations on opportunities for improvement to provide the least cost of operations while maintaining service schedules that meet the needs of ferries customers.

(2) This section expires July 1, 2011.

**Sec. 3.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read as follows:

(1) Terminal and vessel preservation funding requests shall only be for assets in the life-cycle cost model.

(2) Terminal and vessel preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study. The predesign study must include all elements required by the office of financial management.

**Sec. 4.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read as follows:

The department shall develop terminal and vessel design standards that:

(1) Adhere to vehicle level of service standards as described in RCW 47.06.140;

(2) Adhere to operational strategies as described in RCW 47.60.327; and

(3) Choose the most efficient balance between capital and operating investments by using a life-cycle cost analysis.

**Sec. 5.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read as follows:

(1) The capital plan must adhere to the following:

(a) A current ridership demand forecast;

(b) Vehicle level of service standards as described in RCW 47.06.140;

(c) Operational strategies as described in RCW 47.60.327; and

(d) Terminal and vessel design standards as described in RCW 47.60.365.

(2) The capital plan must include the following:

(a) A current vessel preservation plan;

(b) A current systemwide vessel rebuild and replacement plan as described in RCW 47.60.377;

(c) A current vessel deployment plan; and

(d) A current terminal preservation plan that adheres to the life-cycle cost model on capital assets as described in RCW 47.60.345.

**Sec. 6.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read as follows:

(1) Terminal improvement, vessel improvement, and vessel acquisition project funding requests must adhere to the capital plan(~~(2) Requests for terminal improvement design and construction funding must~~), include route-based planning, and be submitted with a predesign study that:

(a) Includes all elements required by the office of financial management;

(b) Separately identifies basic terminal and vessel elements essential for operation and their costs;

(c) Separately identifies additional elements to provide ancillary revenue and customer comfort and their costs;

(d) Includes construction phasing options that are consistent with forecasted ridership increases;

(e) Separately identifies additional elements requested by local governments and the cost and proposed funding source of those elements;

(f) Separately identifies multimodal elements and the cost and proposed funding source of those elements; (~~and~~)

(g) Identifies all contingency amounts(~~(h)(3)] When planning for new vessel acquisitions, the department must evaluate the long-term vessel operating costs related to fuel efficiency and staffing~~);

(h) Identifies any terminal, vessel, or other capital modifications that would be required as a result of the proposed capital project;

(i) Includes planned service modifications as a result of the proposed capital project, and the consistency of those service modifications with the capital plan; and

(j) Demonstrates the evaluation of long-term operating costs including fuel efficiency, staffing, and preservation.

(2) The department shall prioritize vessel preservation and acquisition funding requests over vessel improvement funding requests.

**NEW SECTION. Sec. 7.** A new section is added to chapter 47.60 RCW to read as follows:

(1) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel acquisition funding must be submitted with a predesign study that:

(a) Includes a business decision case on vessel sizing;

(b) Includes an updated vessel deployment plan demonstrating maximum use of existing vessels, and an updated systemwide vessel rebuild and replacement plan;

(c) Includes an analysis that demonstrates that acquiring a new vessel or improving an existing vessel is more cost-effective than other alternatives considered. At a minimum, alternatives explored must include:

(i) Alternatives to new vessel construction that increase capacity of existing vessels;

(ii) Service level changes in lieu of adding vessel capacity; and

(iii) Acquiring existing vessels or existing vessel plans rather than wholly new vessels or vessel plans; and

(d) Demonstrates that the vessel proposed for improvement, construction, or purchase, if intended to replace an existing vessel or to place an existing vessel into inactive or reserve status, is consistent with the scheduled replacements in the rebuild and replacement plan.

(2) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel improvement funding must be submitted with a predesign study that includes:

(a) An explanation of any regulatory changes necessitating the improvement;

(b) The requirements under subsection (1) of this section, if the improvement modifies the capacity of a vessel;

(c) A cost-benefit analysis of any modifications designed to improve fuel efficiency, including potential impacts on vessel maintenance and repair; and

(d) An assessment of out-of-service time associated with making the improvement and ongoing preservation of the improvement.

**NEW SECTION. Sec. 8.** (1) Signage must be prominently displayed at each terminal and on each vessel that informs the public that assaults on Washington state employees will be prosecuted to the full extent of the law.

(2) The department shall investigate the frequency, severity, and prosecutorial results of assaults on Washington state ferries employees and, if appropriate, make recommendations to the transportation committees of the senate and house of representatives during the 2011 legislative session regarding methods to decrease the number of assaults on employees and procedures for prosecuting those who assault employees.

(3) This section expires June 30, 2011.

**Sec. 9.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to read as follows:

(1)(a) A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right-of-way purposes may be repaired or renovated pending the use of such right-of-way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof are less than fifty thousand dollars and effective July 1, 2005, sixty thousand dollars(~~(-PROVIDED; That)~~),

(b) When delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(c) When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor.

(d) To enable a larger number of small businesses, and minority, and women contractors to effectively compete for department of transportation contracts, the department may adopt rules providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate indicates the cost of the work would not exceed eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(2) The rules adopted under this section:

((1)) (a) Shall provide for competitive bids to the extent that competitive sources are available except when delay of performance would jeopardize life or property or inconvenience the traveling public; and

((2)) (b) Need not require the furnishing of a bid deposit nor a performance bond, but if a performance bond is not required then progress payments to the contractor may be required to be made based on submittal of paid invoices to substantiate proof that disbursements have been made to laborers, material suppliers, mechanics, and subcontractors from the previous partial payment; and

((3)) (c) May establish prequalification standards and procedures as an alternative to those set forth in RCW 47.28.070, but the prequalification standards and procedures under RCW 47.28.070 shall always be sufficient.

(3) The department of transportation shall comply with such goals and rules as may be adopted by the office of minority and women's business enterprises to implement chapter 39.19 RCW with respect to contracts entered into under this chapter. The department may adopt such rules as may be necessary to comply with the rules adopted by the office of minority and women's business enterprises under chapter 39.19 RCW.

(4)(a) For the period of March 15, 2010, through June 30, 2011, work for less than one hundred twenty thousand dollars may be performed on ferry vessels and terminals by state forces.

(b) The department shall hire a disinterested, third party to

conduct an independent analysis to identify methods of reducing out-of-service times for vessel maintenance, preservation, and improvement projects. The analysis must include options that consider consolidating work while vessels are at shipyards by having state forces perform services traditionally performed at Eagle Harbor at the shipyard and decreasing the allowable time at shipyards. The analysis must also compare the out-of-service vessel times of performing services by state forces versus contracting out those services which in turn must be used to form a recommendation as to what the threshold of work performed on ferry vessels and terminals by state forces should be. This analysis must be presented to the transportation committees of the senate and house of representatives by December 1, 2010.

(c) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the senate and house of representatives by December 1, 2010. The proposed program must:

(i) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(ii) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards; and

(iii) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(d) In developing the proposed ferry vessel maintenance, preservation, and improvement program, the department shall consider the following, related to reducing vessel out-of-service time:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects.

**Sec. 10.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times(;) to negotiate in good faith with respect to wages, hours, working conditions, and insurance, ((and health care benefits as limited by RCW 47.64.270,)) and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**Sec. 11.** RCW 47.64.170 and 2007 c 160 s 1 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) Negotiating sessions, including strategy meetings of the employer or employee organizations, mediation, and the deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties.

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative.

(6)(a) Within ten working days after the first Monday in September of every odd-numbered year, the parties shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. If the parties cannot agree on an arbitrator within the ten-day period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. The parties shall select an interest arbitrator using the coin toss/alternate strike method within thirty calendar days of receipt of the list. Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration. This subsection (6)(a) imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(b) The negotiation of a proposed collective bargaining agreement by representatives of the employer and a ferry employee

organization shall commence on or about February 1st of every even-numbered year.

(c) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of all agreements on or before October 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by October 1st of each even-numbered year.

(7) ~~((Until a new collective bargaining agreement is in effect, the terms and conditions of the previous collective bargaining agreement shall remain in force.))~~ It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial budget year, as defined by RCW 43.88.020(7), to the extent practical. It is further the intent of this section that all collective bargaining agreements be concluded by October 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect. After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) The office of financial management shall conduct a salary survey, for use in collective bargaining and arbitration, which must be conducted through a contract with a firm nationally recognized in the field of human resources management consulting.

(9)(a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the

exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and 47.64.300.

~~((9))~~ (10) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

**Sec. 12.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read as follows:

As the first step in the performance of their duty to bargain, the employer and the employee organization shall endeavor to agree upon impasse procedures. Unless otherwise agreed to by the employee organization and the employer in their impasse procedures, the arbitrator or panel ~~((is limited to selecting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties. The employee organization and the employer may mutually agree to the impasse procedure under which the arbitrator or panel may))~~ shall issue a decision it deems just and appropriate with respect to each impasse item. If the parties fail to agree upon impasse procedures under this section, the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply. It is unlawful for either party to refuse to participate in the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320.

**Sec. 13.** RCW 47.64.270 and 2006 c 164 s 17 are each amended to read as follows:

(1) The employer and one coalition of all the exclusive bargaining representatives subject to this chapter and chapter 41.80 RCW shall conduct negotiations regarding the dollar amount expended on behalf of each employee for health care benefits.

(2) Absent a collective bargaining agreement to the contrary, the department of transportation shall provide contributions to insurance and health care plans for ferry system employees and dependents, as determined by the state health care authority, under chapter 41.05 RCW~~((; and))~~.

(3) The employer and employee organizations may collectively bargain for ~~((other))~~ insurance ~~((and health care))~~ plans other than health care benefits, and employer contributions may exceed that of other state agencies as provided in RCW 41.05.050. ~~((To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985-87 fiscal biennium, employees shall not be required to absorb a further offset except to the extent the differential between employer contributions for those employees and all other state general government employees increases during any subsequent fiscal biennium. If such differential increases in the 1987-89 fiscal biennium or the 1985-87 offset by bargaining unit is insufficient to meet the required deduction, the amount available for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985-87 shortage in the required offset. Compensation shall include all wages and employee benefits.))~~

**Sec. 14.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to read as follows:

(1) There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be chair of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that

any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.

(2) The commission shall: (a) Adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150; (b) provide for impasse mediation as required in RCW 47.64.210; ~~and~~ (c) ~~((provide salary surveys as required in RCW 47.64.220; and~~ (d)) perform those duties required in RCW 47.64.300.

(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.

(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.

(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.

(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter.

**Sec. 15.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to read as follows:

(1) The mediator, arbitrator, or arbitration panel may consider only matters that are subject to bargaining under this chapter, except that health care benefits are not subject to interest arbitration.

(2) The decision of an arbitrator or arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefit provisions of an arbitrated collective bargaining agreement, is not binding on the state, the department of transportation, or the ferry employee organization.

(3) In making its determination, the arbitrator or arbitration panel shall be mindful of the legislative purpose under RCW 47.64.005 and 47.64.006 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) The financial ability of the department to pay for the compensation and fringe benefit provisions of a collective bargaining agreement;

(b) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

~~((b))~~ (c) The constitutional and statutory authority of the employer;

~~((c))~~ (d) Stipulations of the parties;



~~((d))~~ (e) The results of the salary survey as required in RCW ~~(47.64.220)~~ 47.64.170(8);

~~((e))~~ (f) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

~~((f))~~ (g) Changes in any of the foregoing circumstances during the pendency of the proceedings;

~~((g))~~ (h) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature; ~~(and~~

~~(h))~~ (i) The ability of the state to retain ferry employees;

(j) The overall compensation presently received by the ferry employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received; and

(k) Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

(4) This section applies to any matter before the respective mediator, arbitrator, or arbitration panel.

**Sec. 16.** RCW 41.80.020 and 2002 c 354 s 303 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of personnel or the Washington personnel resources board adopted under section 203, chapter 354, Laws of 2002.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4).

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency

policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

**NEW SECTION. Sec. 17.** A new section is added to chapter 47.60 RCW to read as follows:

Upon expiration of the collective bargaining agreements in existence as of the effective date of this section, the department shall not allow free passage on any ferry vessel operated by the department to:

(1) Any department employee unless it is directly related to the employee's job duties, directly reporting to duty, or directly returning home from duty;

(2) Any former department employee or their families; or

(3) Any department employee's family members.

**Sec. 18.** 2010 c ... (ESSB 6381) s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X**

Puget Sound Ferry Operations Account--State

Appropriation .....  
\$425,252,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$78,754,952 of the Puget Sound ferry operations account--state appropriation is provided solely for auto ferry vessel operating fuel in the 2009-11 fiscal biennium. This appropriation is contingent upon the enactment of ~~((sections 716 and 701 of this act))~~ section 701, chapter . . . (ESSB 6381), Laws of 2010. All fuel purchased by the Washington state ferries at Harbor Island truck terminal for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent.

(2) To protect the waters of Puget Sound, the department shall investigate nontoxic alternatives to fuel additives and other commercial products that are used to operate, maintain, and preserve vessels.

(3) If, after the department's review of fares and pricing policies, the department proposes a fuel surcharge, the department must evaluate other cost savings and fuel price stabilization strategies that would be implemented before the imposition of a fuel surcharge. The department shall report to the legislature and transportation commission on its progress of implementing new fuel forecasting and budgeting practices, price hedging contracts for fuel purchases, and fuel conservation strategies by November 30, 2010.

(4) The department shall strive to significantly reduce the number of injuries suffered by Washington state ferries employees. By December 15, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature its implementation plan to reduce such injuries.

(5) The department shall continue to provide service to Sidney, British Columbia. The department may place a Sidney terminal departure surcharge on fares for out of state residents riding the Washington state ferry route that runs between Anacortes, Washington and Sidney, British Columbia, if the cost for landing/license fee, taxes, and additional amounts charged for docking are in excess of \$280,000 CDN. The surcharge must be limited to recovering amounts above \$280,000 CDN.

(6) The department shall analyze operational solutions to enhance service on the Bremerton to Seattle ferry run. The Washington state

ferries shall report its analysis to the transportation committees of the legislature by December 1, 2009.

(7) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2011-13 omnibus transportation appropriations act request, as determined jointly by the office of financial management, the Washington state ferries, and the legislative transportation committees.

(8) (~~(\$4,794,000)~~ \$4,124,000) of the Puget Sound ferry operations account--state appropriation is provided solely for commercial insurance for ferry assets. The office of financial management, after consultation with the transportation committees of the legislature, must present a business plan for the Washington state ferry system's insurance coverage to the 2010 legislature. The business plan must include a cost-benefit analysis of Washington state ferries' current commercial insurance purchased for ferry assets and a review of self- insurance for noncatastrophic events.

(9) \$1,100,000 of the Puget Sound ferry operations account--state appropriation is provided solely for a marketing program. The department shall present a marketing program proposal to the transportation committees of the legislature during the 2010 legislative session before implementing this program. Of this amount, \$10,000 is for the city of Port Townsend and \$10,000 is for the town of Coupeville for mitigation expenses related to only one vessel operating on the Port Townsend/Keystone ferry route. The moneys provided to the city of Port Townsend and town of Coupeville are not contingent upon the required marketing proposal.

(10) \$350,000 of the Puget Sound ferry operations account--state appropriation is provided solely for two extra trips per day during the summer of 2009 season, beyond the current schedule, on the Port Townsend/Keystone route.

(11) When purchasing uniforms that are required by collective bargaining agreements, the department shall contract with the lowest cost provider.

(12) The legislature finds that measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the legislature and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act.

(13) As a priority task, the department is directed to propose a comprehensive incident and accident investigation policy and appropriate procedures, and to provide the proposal to the legislature by November 1, 2009, using existing resources and staff expertise. In addition to consulting with ferry system unions and the United States coast guard, the Washington state ferries is encouraged to solicit independent outside expertise on incident and accident investigation best practices as they may be found in other organizations with a similar concern for marine safety. It is the intent of the legislature to enact the policies into law and to publish that law and procedures as a manual for Washington state ferries' accident/incident investigations. Until that time, the Washington state ferry system must exercise particular diligence to assure that any incident or accident investigations are conducted within the spirit of the guidelines of this act. The proposed policy must contain, at a minimum:

(a) The definition of an incident and an accident and the type of investigation that is required by both types of events;

(b) The process for appointing an investigating officer or officers and a description of the authorities and responsibilities of the investigating officer or officers. The investigating officer or officers must:

(i) Have the appropriate training and experience as determined by the policy;

(ii) Not have been involved in the incident or accident so as to avoid any conflict of interest;

(iii) Have full access to all persons, records, and relevant organizations that may have information about or may have contributed to, directly or indirectly, the incident or accident under investigation, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW;

(iv) Be provided with, if requested by the investigating officer or officers, appropriate outside technical expertise; and

(v) Be provided with staff and legal support by the Washington state ferries as may be appropriate to the type of investigation;

(c) The process of working with the affected employee or employees in accordance with the employee's or employees' respective collective bargaining agreement and the appropriate union officials, within protocols afforded to all public employees;

(d) The process by which the United States coast guard is kept informed of, interacts with, and reviews the investigation;

(e) The process for review, approval, and implementation of any approved recommendations within the department; and

(f) The process for keeping the public informed of the investigation and its outcomes, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW.

(14) \$7,300,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the purposes of travel time associated with Washington state ferries employees. However, if Engrossed Substitute House Bill No. 3209 (managing costs of ferry system) is enacted by June 30, 2010, containing an appropriation for purposes of travel time associated with Washington state ferries employees, the amount provided in this subsection lapses.

(15) \$50,000 of the Puget Sound ferry operations account--state appropriation is provided solely to implement a mechanism to report on- time performance statistics.

(a) The department shall conduct a study to identify process changes that would improve on-time performance on a route-by-route basis. The study must include looking into the slowing down of vessels for fuel economy purposes and touch-and-go sailings on peak runs. The department shall report its findings to the transportation committees of the senate and house of representatives by December 1, 2010.

(b) The department shall, by November 1, 2010, report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

(16) The department shall investigate outsourcing the call center functions planned for the ferry reservation system and report its findings to the transportation committees of the senate and house of representatives by December 15, 2010.

(17) By July 1, 2010, the department shall provide to the governor and the transportation committees of the senate and house of representatives a listing of all benefits that Washington state ferries union employees receive that other state employees do not traditionally receive. The listing must include any costs associated with these benefits.

**Sec. 19.** 2010 c ... (ESSB 6381) s 306 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION-- WASHINGTON STATE FERRIES CONSTRUCTION-- PROGRAM W**

Puget Sound Capital Construction Account--State	Appropriation .....	\$126,824,000
Puget Sound Capital Construction Account--Federal	Appropriation .....	\$60,364,000
Puget Sound Capital Construction Account--Local	Appropriation .....	\$200,000
Transportation 2003 Account (Nickel Account)--State	Appropriation .....	\$51,734,000
Transportation Partnership Account--State	Appropriation .....	\$66,879,000
Multimodal Transportation Account--State	Appropriation .....	\$149,000
<b>TOTAL APPROPRIATION</b> .....		<b>\$306,150,000</b>

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

(1) \$126,824,000 of the Puget Sound capital construction account-- state appropriation, \$60,364,000 of the Puget Sound capital construction account--federal appropriation, \$200,000 of the Puget Sound capital construction account--local appropriation, \$66,879,000 of the transportation partnership account--state appropriation, \$51,734,000 of the transportation 2003 account (nickel account)--state appropriation, and \$149,000 of the multimodal transportation account-- state appropriation are provided solely for ferry capital projects, project support, and administration as listed in LEAP Transportation Document ALL PROJECTS 2010-2 as developed March 8, 2010, Program - Ferries Construction Program (W). Of the total appropriation, a maximum of \$10,627,000 may be used for administrative support, a maximum of \$8,184,000 may be used for terminal project support, and a maximum of \$4,497,000 may be used for vessel project support. Of the total appropriation, \$5,851,000 is provided solely for a reservation system and associated communications projects.

(2) \$51,734,000 of the transportation 2003 account (nickel account)--state appropriation, \$63,100,000 of the transportation partnership account--state appropriation, and \$10,164,000 of the Puget Sound capital construction account--state appropriation are provided solely for the acquisition of three new Island Home class ferry vessels subject to the conditions of RCW 47.56.780. The department shall pursue a contract for the second and third Island Home class ferry vessels with an option to purchase a fourth Island Home class ferry vessel. However, if sufficient resources are available to build one 144-auto vessel prior to exercising the option to build the fourth Island Home class ferry vessel, procurement of the fourth Island Home class ferry vessel will be postponed and the department shall pursue procurement of a 144-auto vessel.

(a) The first two Island Home class ferry vessels must be placed on the Port Townsend-Keystone route.

(b) The department may add additional passenger capacity to one of the Island Home class ferry vessels to make it more flexible within the system in the future, if doing so does not require additional staffing on the vessel.

(c) Cost savings from the following initiatives will be included in the funding of these vessels: The department's review and update of the vessel life-cycle cost model as required under this section; and the implementation of technology efficiencies as required under section 602 of this act.

(3)(a) \$8,450,000 of the Puget Sound capital construction account-- state appropriation and \$2,450,000 of the transportation partnership account--state appropriation are provided solely for the following projects related to the design of a 144-vehicle vessel class:

(i) \$1,380,000 is provided solely for completion of the contract for owner- furnished equipment; (ii) \$8,320,000 is provided solely for completion of the technical design, detail design, and production drawings, all of which must plan for an aluminum superstructure; (iii) \$480,000 is provided solely for the storage of owner-furnished equipment; and (iv) a maximum of \$720,000 is for construction engineering. In completing the contract for \$126,824,000 equipment, the department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessels. It is likely to be obsolete before it is used in procured 144-vehicle vessels. \$200,000

(b) The department shall conduct a cost-benefit study on alternative furnishings and fittings for the 144-vehicle vessels. The study must review the proposed interior furnishings and fittings for the long-term maintenance and out-of-service vessels if appropriate, propose alternative interior furnishings and fittings that will decrease long-term maintenance and out-of-service costs. The study must include a projection of out-of-service cycle cost analysis of planned out-of-service time, including the impact on fleet size. The department must submit the study to the joint transportation committee by August 1, 2010.

(c) The department shall identify costs for any additional detail design and production drawings costs related to incorporating the aluminum superstructure and any changes in the proposed furnishings and fittings.

(4) \$6,300,000 of the Puget Sound capital construction account--state appropriation is provided solely for emergency capital costs.

(5) \$3,000,000 of the Puget Sound capital construction account--federal appropriation is provided solely for completing the Anacortes terminal design up to the maximum allowable construction cost phase. Beyond preparing environmental work, these funds may be spent only after the following conditions have been met: (a) A value engineering process is conducted on the existing design and the concept of a terminal building smaller than preferred alternative; (b) the office of financial management participates in the value engineering process; (c) the office of financial management concurs with the recommendations of the value engineering process; and (d) the office of financial management gives its approval to proceed with the design work.

(6) \$3,965,000 of the Puget Sound capital construction account--state appropriation is provided solely for the following vessel projects: Waste heat recovery pilot project for the Issaquah; jumbo Mark I class steering gear ventilation pilot project; and improvements to the Yakima and Kaleetan propulsion controls to allow for two engine operation. Before beginning these projects, the Washington state ferries must ensure the vessels' out-of-service time does not negatively impact service to the system.

(7) The department shall pursue purchasing a foreign-flagged vessel for service on the Anacortes, Washington to Sidney, British Columbia ferry route.

(8) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2009-11 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS). The quarterly report regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

(9) The department shall review and adjust its capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The Washington state ferries shall

report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2009.

(10) \$1,200,000 of the total appropriation is provided solely for improving the toll booth configuration at the Port Townsend and Keystone ferry terminals.

(11) \$2,636,000 of the total appropriation is provided solely for continued permitting work on the Mukilteo ferry terminal. The department shall seek additional federal funding for this project.

(12) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the legislature by July 1, 2010. The proposal must:

(a) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(b) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards. At a minimum, the department shall consider the following:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects; and

(c) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(13) \$247,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Washington state ferries to review and update its vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by ~~(March 15)~~ December 1, 2010. This review will evaluate the impact of the planned out-of-service periods scheduled for each vessel on the ability of the overall system to deliver uninterrupted service and will assess the risk of service disruption from unscheduled maintenance or longer than planned maintenance periods.

(14) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

(15) The Puget Sound capital construction account--state appropriation includes up to \$114,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(16) The Puget Sound capital construction account--state appropriation reflects the reduction of three terminal positions due to decreased terminal activity and funding.

(17) The department shall provide data to the transportation committees of the senate and house of representatives for a transparent analysis of travel pay policies.

NEW SECTION. Sec. 20. The following acts or parts of acts are each repealed:

(1) RCW 47.61.010 (Authority to enter into agreement and apply for financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;

(2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and 1965 ex.s. c 56 s 2;

(3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965 ex.s. c 56 s 3;

(4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable-- Negotiable instruments) and 1965 ex.s. c 56 s 4;

(5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale-- Legal investment for state funds) and 1965 ex.s. c 56 s 5;

(6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965 ex.s. c 56 s 6;

(7) RCW 47.61.070 (Statement describing nature of bond obligation-- Pledge of excise taxes) and 1965 ex.s. c 56 s 7;

(8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant agreement) and 1965 ex.s. c 56 s 8;

(9) RCW 47.61.090 (Designation of funds to repay bonds and interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;

(10) RCW 47.61.100 (Bond repayment procedure--Highway bond retirement fund) and 1965 ex.s. c 56 s 10;

(11) RCW 47.61.110 (Sums in excess of bond retirement requirements--Use) and 1965 ex.s. c 56 s 11;

(12) RCW 47.60.395 (Evaluation of cost allocation methodology and preservation and improvement costs--Exception) and 2009 c 470 s 707 & 2007 c 512 s 15;

(13) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998 c 166 s 1;

(14) RCW 47.60.652 (Passenger-only ferry service--Vessel and terminal acquisition, procurement, and construction) and 1998 c 166 s 2;

(15) RCW 47.60.654 (Passenger-only ferry service--Contingency) and 1998 c 166 s 3;

(16) RCW 47.60.658 (Passenger-only ferry service between Vashon and Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;

(17) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c 493 s 1;

(18) RCW 47.60.772 (Jumbo ferry construction--Bidding documents) and 1993 c 493 s 2;

(19) RCW 47.60.774 (Jumbo ferry construction--Procedure on conclusion of evaluation) and 1993 c 493 s 4;

(20) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c 493 s 5;

(21) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6;

(22) RCW 47.60.780 (Jumbo ferry construction--Propulsion system acquisition) and 1994 c 181 s 2; and

(23) RCW 47.64.220 (Salary survey) and 2006 c 164 s 10, 2005 c 274 s 308, 1999 c 256 s 1, 1989 c 327 s 2, & 1983 c 15 s 13.

NEW SECTION. Sec. 21. Section 18 of this act takes effect if section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is enacted into law. If section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not enacted into law, section 18 of this act is void in its entirety.

NEW SECTION. Sec. 22. Section 19 of this act takes effect if section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is enacted into law. If section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not enacted into law, section 19 of this act is void in its entirety.

**NEW SECTION. Sec. 23.** 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. 24.** 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."

and the same is herewith transmitted.

Thomas Hoeman , Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 3209 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Clibborn, Roach and Rolfes spoke in favor of the passage of the bill.

Representative Seaquist spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 3209, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 3209, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 81; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Blake, Campbell, Carlyle, Clibborn, Cody, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kretz, Kristiansen, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Shea, Short, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker.

Voting nay: Representatives Appleton, Bailey, Chandler, Chase, Conway, Hinkle, Kirby, Klippert, Lias, Ormsby, Seaquist, Sells, Simpson, Smith, White and Williams.

Excused: Representative Condotta.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3209, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Moeller presiding) called upon Representative Morris to preside.

#### MESSAGES FROM THE SENATE

March 11, 2010

Mr. Speaker:

The Senate has passed: HOUSE BILL 3061 and the same is herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The Senate concurred in the House amendment to the following bills and passed the bills as amended by the House:

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6267  
SUBSTITUTE SENATE BILL 6355

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The Senate concurred in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL 6604 and passed the bill as amended by the House and the same is herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The Senate concurred in the House amendment to the following bills and passed the bills as amended by the House:

SUBSTITUTE SENATE BILL 5798  
SUBSTITUTE SENATE BILL 6280  
SUBSTITUTE SENATE BILL 6293

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The President has signed:

SUBSTITUTE SENATE BILL 6520  
SECOND SUBSTITUTE SENATE BILL 6578  
SUBSTITUTE SENATE BILL 6611

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The Senate concurred in the House amendment to the following bills and passed the bills as amended by the House:

ENGROSSED SUBSTITUTE SENATE BILL 5902  
ENGROSSED SENATE BILL 6610

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The Senate concurred in the House amendment to SUBSTITUTE SENATE BILL 6611 and passed the bill as amended by the House and the same is herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL 2893 and the same is herewith transmitted.

Thomas Hoemann, Secretary

**MESSAGE FROM THE SENATE**

March 11, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1096 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The legislature finds that it is in the state's economic interest and serves a public purpose to promote and facilitate the fullest possible participation by Washington businesses of all sizes in the process by which goods and services are purchased by the state. The legislature further finds that large businesses have the resources to participate fully and effectively in the state's purchasing system, and because of many factors, including economies of scale, the purchasing system tends to create a preference in favor of large businesses and to disadvantage small businesses. The legislature intends, therefore, to assist, to the maximum extent possible, small businesses to participate in order to enhance and preserve competitive enterprise and to ensure that small businesses have a fair opportunity to be awarded contracts or subcontracts for goods and services purchased by the state.

(2) Purchasing agencies must establish and implement a plan to increase the number of small businesses annually receiving state contracts for goods and services purchased by the state. The goal of the plan must be to have the number of small businesses receiving state contracts in 2012 be at least fifty percent higher, and in 2014 be at least one hundred percent higher, than the number of contracts awarded to small businesses in 2009.

(3) On July 1, 2011, and each July 1st thereafter, the department of general administration, in consultation with the department of information services and the department of transportation, shall report to the governor and the appropriate committees of the legislature on progress in carrying out the plan required by this section. Annual reports must include information about progress in increasing the number of small businesses participating in state contracts, steps taken to meet the goals of the plan, and the characteristics of small businesses that are awarded contracts.

(4) As used in this section:

(a) "Purchasing agencies" are limited to the department of general administration, the department of information services, and the department of transportation.

(b) "In-state business" means a business that has its principal office located in Washington and its officers domiciled in Washington.

(c) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that: (i) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either (A) fifty or fewer employees, or (B) a gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or (ii) is certified under chapter 39.19 RCW.

(5) This section expires July 1, 2015."

On page 1, line 2 of the title, after "purchasing;" strike the remainder of the title and insert "adding a new section to chapter 43.19 RCW; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1096 and advanced the bill, as amended by the Senate, to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representatives Hasegawa and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1096, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1096, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 87; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Dammeier, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Kristiansen, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Chandler, Crouse, DeBolt, Klippert, Kretz, McCune, Nealey, Shea, Short and Taylor.

Excused: Representative Condotta.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1096, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 11, 2010

Mr. Speaker:

The Senate recessed from its amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658. Under suspension of the rules, the bill was returned to second reading for purpose of amendment. The Senate adopted 2658-S2.E AMS KAST S5513.2 and passed the bill as amended by the Senate:

0)

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** In 2009, the legislature changed the name of the department of community, trade, and economic development to the department of commerce and directed the agency to, among other things, develop a report with recommendations on statutory changes to ensure that the department's efforts: Are organized around a concise core mission and aligned with the state's

comprehensive plan for economic development; generate greater local capacity; maximize results through partnerships and the use of intermediaries; and provide transparency and increased accountability. Recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission were to be included in the report.

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

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

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

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

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

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

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

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

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

**NEW SECTION. Sec. 4.** The department shall examine the functions and operations of agricultural commodity commissions in the state and collaborate with industry sector and cluster associations on legislation that would enable industries to develop self-financing systems for addressing industry-identified issues such as workforce training, international marketing, quality improvement, and technology deployment. By December 1, 2010, the department shall report to the governor and the legislature on its findings and proposed legislation.

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

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

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

(3) This section expires July 1, 2012.

#### PART I

#### DEPARTMENT OF HEALTH--PUBLIC HEALTH

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

(1) The county public health account is created in the state treasury. Funds deposited in the county public health account shall be distributed by the state treasurer to each local public health jurisdiction based upon amounts certified to it by the department of ~~((community, trade, and economic development))~~ health in consultation with the Washington state association of counties. The account shall include funds distributed under RCW 82.14.200(8) and

such funds as are appropriated to the account from the state general fund, the public health services account under RCW 43.72.902, and such other funds as the legislature may appropriate to it.

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

(b) Only if funds are available and in an amount no greater than available funds under RCW 82.14.200(8), the department of community, trade, and economic development shall adjust the amount certified under (a) of this subsection to compensate for any annexation of an area with fifty thousand residents or more to any city as a result of a petition during calendar year 1996 or 1997, or for any city that became newly incorporated as a result of an election during calendar year 1994 or 1995. The amount to be adjusted shall be equal to the amount which otherwise would have been lost to the health jurisdiction due to the annexation or incorporation as calculated using the jurisdiction's 1995 funding formula.

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

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

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

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

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

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

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

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

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

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

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

## PART II

### DEPARTMENT OF HEALTH--DEVELOPMENTAL DISABILITIES

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

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

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

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

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

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

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

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

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

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

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

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

The department ~~((of commerce))~~ shall adopt rules for the implementation of policies established by the governing board in RCW 43.330.200 through 43.330.230 (as recodified by this act).



Such rules will be consistent with those statutes and chapter 34.05 RCW.

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

RCW 43.330.195

RCW 43.330.200

RCW 43.330.205

RCW 43.330.210

RCW 43.330.220

RCW 43.330.225

RCW 43.330.230

RCW 43.330.240

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

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

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

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

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

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

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

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

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

inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

### **PART III BUILDING CODE COUNCIL**

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

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

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

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

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

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

(1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application

for a water right shall not be sufficient proof of an adequate water supply.

(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of ~~((community, trade, and economic development))~~ general administration to mediate or, if necessary, make the determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~((community, trade, and economic development))~~ general administration shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States environmental protection agency's target finder program or equivalent methodology;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

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

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

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

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

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

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

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

#### PART IV

##### DEPARTMENT OF COMMERCE--ENERGY POLICY

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

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

- (a) Is based on high quality, unbiased analysis;
- (b) Engages public agencies and stakeholders in a thoughtful, deliberative process that creates a cohesive plan that earns sustained support of the public and organizations and institutions that will ultimately be responsible for implementation and execution of the plan; and
- (c) Establishes policies and practices needed to ensure the effective implementation of the strategy.

(2) The legislature further finds that energy drives the entire modern economy from petroleum for vehicles to electricity to light homes and power businesses. The legislature further finds that the nation and the world have started the transition to a clean energy economy, with significant improvements in energy efficiency and

investments in new clean and renewable energy resources and technologies. The legislature further finds this transition may increase or decrease energy costs and efforts should be made to mitigate cost increases.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such

as bioenergy, low-carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

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

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

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

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

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

(2) The department shall:

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

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

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

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

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

~~(1) By December 1, 2010, the department ((shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed.)) of commerce shall update and revise the state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section. By December 1, 2011, and at least every five years thereafter, the department shall produce a fully updated state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section.~~

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

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

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

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

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

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

~~(i) Research institutions of higher education;~~

~~(ii) The Pacific Northwest national laboratory;~~

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

~~and~~

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

~~(b) This group will:~~

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

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

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

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

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

~~(i) Energy generation, distribution, and consumption;~~

~~(ii) Economic development; and~~

~~(iii) Environmental protection, including:~~

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

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

~~(C) Liquid fuel and natural gas industries;~~

~~(D) Local governments;~~

~~(E) Civic and environmental organizations;~~

~~(F) Clean energy companies;~~

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

~~(H) Other interested stakeholders.~~

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

~~(d) The department and advisory committee shall work with stakeholders and other state agencies to develop the strategy.~~

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

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

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

levels of activities and deliverables commensurate with the level of funding and in-kind support available from state and nonstate sources.

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

#### PART V

### CRIMINAL JUSTICE TRAINING COMMISSION-- DRUG

#### PROSECUTION ASSISTANCE PROGRAM

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

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

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

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

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

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

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

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

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

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

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

#### PART VI

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION--ENERGY

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

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

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

(b) The chair or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington (~~state department of community, trade, and economic development~~) utilities and transportation commission shall provide all administrative and staff support for the council. The (~~director of the department of community, trade, and economic development~~) commission has supervisory authority over the staff of the council and shall employ such personnel as are necessary to implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW. The council shall otherwise retain its independence in exercising its powers, functions, and duties and its supervisory control over nonadministrative staff support. Membership, powers, functions, and duties of the Washington state utilities and transportation commission and the council shall otherwise remain as provided by law.

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

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

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

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

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

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

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

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

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

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

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

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

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington utilities and transportation commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington utilities and transportation commission to perform their

usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

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

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

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

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

## PART VII

### MUNICIPAL RESEARCH COUNCIL

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

(1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of ~~((council members))~~ the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the ~~((council members))~~ department are qualified to provide such support.

(2) Municipal research and services shall consist of:

~~((4))~~ (a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

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

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

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

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

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

appropriated to the ~~((municipal research council))~~ department from the county research services account under RCW 43.110.050.

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

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

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

~~((The treasurer may disburse amounts appropriated to the municipal research council from the city and town research services account by warrant or check to the contracting parties on invoices or vouchers certified by the chair of the municipal research council or his or her designee.))~~ Payments to public agencies may be made in advance of actual work contracted for, at the discretion of the ~~((council))~~ department of commerce.

**Sec. 703.** RCW 43.110.080 and 2006 c 328 s 1 are each amended to read as follows:

(1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of ~~((council members))~~ the department is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of:

- (a) Studying and researching issues relating to special purpose district government;
- (b) Acquiring, preparing, and distributing publications related to special purpose districts; and
- (c) Furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The ~~((activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation))~~ department of commerce shall coordinate with the associations representing the various special purpose districts with respect to carrying out the activities in this section. Services to special purpose districts shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department of commerce from the special purpose district research services account under RCW 43.110.090.

**Sec. 704.** RCW 43.15.020 and 2009 c 560 s 27 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

(1) The lieutenant governor serves on the following boards and committees:

- (a) Capitol furnishings preservation committee, RCW 27.48.040;
- (b) Washington higher education facilities authority, RCW 28B.07.030;
- (c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;
- (d) State finance committee, RCW 43.33.010;
- (e) State capitol committee, RCW 43.34.010;
- (f) Washington health care facilities authority, RCW 70.37.030;
- (g) State medal of merit nominating committee, RCW 1.40.020;
- (h) Medal of valor committee, RCW 1.60.020; and
- (i) Association of Washington generals, RCW 43.15.030.

(2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:

- (a) Civil legal aid oversight committee, RCW 2.53.010;
- (b) Office of public defense advisory committee, RCW 2.70.030;
- (c) Washington state gambling commission, RCW 9.46.040;
- (d) Sentencing guidelines commission, RCW 9.94A.860;
- (e) State building code council, RCW 19.27.070;
- (f) Women's history consortium board of advisors, RCW 27.34.365;
- (g) Financial ~~((literacy))~~ education public-private partnership, RCW 28A.300.450;
- (h) Joint administrative rules review committee, RCW 34.05.610;
- (i) Capital projects advisory review board, RCW 39.10.220;
- (j) Select committee on pension policy, RCW 41.04.276;
- (k) Legislative ethics board, RCW 42.52.310;
- (l) Washington citizens' commission on salaries, RCW 43.03.305;
- (m) Legislative oral history committee, RCW 44.04.325;
- (n) State council on aging, RCW 43.20A.685;
- (o) State investment board, RCW 43.33A.020;
- (p) Capitol campus design advisory committee, RCW 43.34.080;
- (q) Washington state arts commission, RCW 43.46.015;
- (r) Information services board, RCW 43.105.032;
- (s) K-20 educational network board, RCW 43.105.800;
- (t) ~~((Municipal research council, RCW 43.110.010;))~~ Council for children and families, RCW 43.121.020;
- ~~((u))~~ (u) PNWER-Net working subgroup under chapter 43.147 RCW;
- ~~((w))~~ (v) Community economic revitalization board, RCW 43.160.030;
- ~~((x))~~ (w) Washington economic development finance authority, RCW 43.163.020;
- ~~((y))~~ (x) Life sciences discovery fund authority, RCW 43.350.020;
- ~~((z))~~ (y) Legislative children's oversight committee, RCW 44.04.220;
- ~~((aa))~~ (z) Joint legislative audit and review committee, RCW 44.28.010;
- ~~((bb))~~ (aa) Joint committee on energy supply and energy conservation, RCW 44.39.015;
- ~~((cc))~~ (bb) Legislative evaluation and accountability program committee, RCW 44.48.010;
- ~~((dd))~~ (cc) Agency council on coordinated transportation, RCW 47.06B.020;
- ~~((ee))~~ (dd) Manufactured housing task force, RCW 59.22.090;
- ~~((ff))~~ (ee) Washington horse racing commission, RCW 67.16.014;
- ~~((gg))~~ (ff) Correctional industries board of directors, RCW 72.09.080;
- ~~((hh))~~ (gg) Joint committee on veterans' and military affairs, RCW 73.04.150;
- ~~((ii))~~ (hh) Joint legislative committee on water supply during drought, RCW 90.86.020;
- ~~((jj))~~ (ii) Statute law committee, RCW 1.08.001; and
- ~~((kk))~~ (jj) Joint legislative oversight committee on trade policy, RCW 44.55.020.

**Sec. 705.** RCW 35.21.185 and 1995 c 21 s 1 are each amended to read as follows:

(1) It is the purpose of this section to provide a means whereby all cities and towns may obtain, through a single source, information regarding ordinances of other cities and towns that may be of assistance to them in enacting appropriate local legislation.

(2) For the purposes of this section, (a) "clerk" means the city or town clerk or other person who is lawfully designated to perform the recordkeeping function of that office, and (b) "~~((municipal research council))~~ department" means the ~~((municipal research council created by chapter 43.110 RCW))~~ department of commerce.



(3) The clerk of every city and town is directed to provide to the ~~((municipal research council))~~ department or its designee, promptly after adoption, a copy of each of its regulatory ordinances and such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the ~~((municipal research council))~~ department or its designee from time to time, and may provide such copies without charge. The ~~((municipal research council))~~ department may provide that information to the entity with which it contracts for the provision of municipal research and services, in order to provide a pool of information for all cities and towns in the state of Washington.

(4) This section is intended to be directory and not mandatory.

**Sec. 706.** RCW 35.102.040 and 2006 c 301 s 7 are each amended to read as follows:

(1)(a) The cities, working through the association of Washington cities, shall form a model ordinance development committee made up of a representative sampling of cities that as of July 27, 2003, impose a business and occupation tax. This committee shall work through the association of Washington cities to adopt a model ordinance on municipal gross receipts business and occupation tax. The model ordinance and subsequent amendments shall be adopted using a process that includes opportunity for substantial input from business stakeholders and other members of the public. Input shall be solicited from statewide business associations and from local chambers of commerce and downtown business associations in cities that levy a business and occupation tax.

(b) The ~~((municipal research council))~~ department of commerce shall contract to post the model ordinance on an internet web site and to make paper copies available for inspection upon request. The department of revenue and the department of licensing shall post copies of or links to the model ordinance on their internet web sites. Additionally, a city that imposes a business and occupation tax must make copies of its ordinance available for inspection and copying as provided in chapter 42.56 RCW.

(c) The definitions and tax classifications in the model ordinance may not be amended more frequently than once every four years, however the model ordinance may be amended at any time to comply with changes in state law. Any amendment to a mandatory provision of the model ordinance must be adopted with the same effective date by all cities.

(2) A city that imposes a business and occupation tax must adopt the mandatory provisions of the model ordinance. The following provisions are mandatory:

(a) A system of credits that meets the requirements of RCW 35.102.060 and a form for such use;

(b) A uniform, minimum small business tax threshold of at least the equivalent of twenty thousand dollars in gross income annually. A city may elect to deviate from this requirement by creating a higher threshold or exemption but it shall not deviate lower than the level required in this subsection. If a city has a small business threshold or exemption in excess of that provided in this subsection as of January 1, 2003, and chooses to deviate below the threshold or exemption level that was in place as of January 1, 2003, the city must notify all businesses licensed to do business within the city at least one hundred twenty days prior to the potential implementation of a lower threshold or exemption amount;

(c) Tax reporting frequencies that meet the requirements of RCW 35.102.070;

(d) Penalty and interest provisions that meet the requirements of RCW 35.102.080 and 35.102.090;

(e) Claim periods that meet the requirements of RCW 35.102.100;

(f) Refund provisions that meet the requirements of RCW 35.102.110; and

(g) Definitions, which at a minimum, must include the definitions enumerated in RCW 35.102.030 and 35.102.120. The definitions in chapter 82.04 RCW shall be used as the baseline for all definitions in

the model ordinance, and any deviation in the model ordinance from these definitions must be described by a comment in the model ordinance.

(3) Except for the deduction required by RCW 35.102.160 and the system of credits developed to address multiple taxation under subsection (2)(a) of this section, a city may adopt its own provisions for tax exemptions, tax credits, and tax deductions.

(4) Any city that adopts an ordinance that deviates from the nonmandatory provisions of the model ordinance shall make a description of such differences available to the public, in written and electronic form.

**Sec. 707.** RCW 36.70B.220 and 2005 c 274 s 272 are each amended to read as follows:

(1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.

(2) Permit assistance staff designated under this section shall:

(a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to chapter 42.56 RCW. The staff shall also publish and keep current one or more handouts containing lists and explanations of all local government regulations and adopted policies;

(b) Establish and make known to the public the means of obtaining the handouts and related information; and

(c) Provide assistance regarding the application of the local government's regulations in particular cases.

(3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under subsection (2) of this section from the ~~((municipal research council and the department of community, trade, and economic development))~~ department of commerce.

**NEW SECTION. Sec. 708.** The following acts or parts of acts are each repealed:

(1) RCW 43.110.010 (Council created--Membership--Terms--Travel expenses) and 2001 c 290 s 1, 1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22 s 1, 1975-'76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c 108 s 2;

(2) RCW 43.110.040 (Local government regulation and policy handouts--Technical assistance) and 1996 c 206 s 10; and

(3) RCW 43.110.070 (Hazardous liquid and gas pipeline--Model ordinance and franchise agreement) and 2000 c 191 s 8.

**NEW SECTION. Sec. 709.** (1) The municipal research council is hereby abolished and its powers, duties, and functions are hereby transferred to the department of commerce. All references to the municipal research council in the Revised Code of Washington shall be construed to mean the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the municipal research council shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the municipal research council shall be made available to the department of commerce. All funds, credits, or other assets held by the municipal research council shall be assigned to the department of commerce.

(b) Any appropriations made to the municipal research council shall, on the effective date of this section, be transferred and credited to the department of commerce.

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

(3) All rules and all pending business before the municipal research council shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(4) The transfer of the powers, duties, and functions of the municipal research council shall not affect the validity of any act performed before the effective date of this section.

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

### PART VIII

#### MISCELLANEOUS PROVISIONS

**Sec. 801.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Staff employed by the department of ~~((community, trade, and economic development))~~ commerce to administer energy policy functions ~~((and manage))~~;

~~((aa))~~ The manager of the energy facility site evaluation council ~~((activities under RCW 43.21F.045(2)(m)))~~;

~~((aa))~~ (bb) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((cc))~~ Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board;

PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (y) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any position exempt from classification under this chapter.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**NEW SECTION. Sec. 802.** RCW 43.63A.150 is decodified.

**NEW SECTION. Sec. 803.** This act takes effect July 1, 2010."

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 43.330.005, 43.330.007, 70.05.125, 43.330.210, 43.330.240, 19.27.070, 19.27.097, 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.090, 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW 43.21F.025 and 41.06.070; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.21F RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205,

43.330.210, 43.330.220, 43.330.225, 43.330.230, and 43.330.240; decodifying RCW 43.63A.150; repealing RCW 43.21F.015, 43.110.010, 43.110.040, and 43.110.070; providing an effective date; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kenney, Smith and Darneille spoke in favor of the passage of the bill.

Representative Alexander spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2658, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2658, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 61; Nays, 36; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Crouse, Dammeier, DeBolt, Ericksen, Fagan, Haler, Herrera, Hinkle, Hope, Hunter, Hurst, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Taylor, Walsh and Warnick.

Excused: Representative Condotta.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 11, 2010

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SENATE BILL NO. 6221 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position in its amendment to ENGROSSED SENATE BILL NO. 6221 and asked the Senate to concur therein.

#### MESSAGE FROM THE SENATE

March 11, 2010

Mr. Speaker:

The President ruled that the amendment is outside the "scope and object" of the measure. The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 6774 and asks the House to recede therefrom and the same is herewith transmitted.

Thomas Hoeman, Secretary

#### HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 6774 and advanced the bill to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Clibborn spoke in favor of the passage of the bill.

Representative Roach spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6774.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6774, and the bill passed the House by the following vote: Yeas, 72; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Armstrong, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Priest, Quall, Roberts, Rolfes, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Darneille, DeBolt, Ericksen, Herrera, Hinkle, Johnson, Kristiansen, McCune, Nealey, Orcutt, Pearson, Probst, Roach, Rodne, Ross, Smith, Taylor, Walsh and Warnick.

Excused: Representative Condotta.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6774, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

#### SECOND READING

#### SUBSTITUTE SENATE BILL NO. 6339, by Senate Committee on Ways & Means (originally sponsored by Senators Hobbs and Pridemore)

**Concerning a sales and use tax exemption for wax and ceramic materials used to create molds for ferrous and nonferrous investment castings.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Hunter and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6339.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6339, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Ericksen.

Excused: Representative Condotta.

SUBSTITUTE SENATE BILL NO. 6339, having received the necessary constitutional majority, was declared passed.

#### ENGROSSED SUBSTITUTE SENATE BILL NO. 6658, by Senate Committee on Environment, Water & Energy (originally sponsored by Senators Rockefeller, Morton and Pridemore)

**Modifying community solar project provisions for investment cost recovery incentives.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Technology, Energy & Communications was not adopted.

Representative McCoy moved the adoption of amendment (1351).

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.16.110 and 2009 c 469 s 504 are each amended to read as follows:

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

(1) "Administrator" means an owner and assignee of a community solar project as defined in subsection (2)(a)(i) of this section that is responsible for applying for the investment cost recovery incentive on behalf of the other owners and performing such administrative tasks on behalf of the other owners as may be necessary, such as receiving investment cost recovery incentive payments, and allocating and paying appropriate amounts of such payments to the other owners.

(2)(a) "Community solar project" means:

(i) A solar energy system that is capable of generating up to seventy-five kilowatts of electricity and is owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business; ~~((6F))~~

(ii) A utility-owned solar energy system that is capable of generating up to seventy-five kilowatts of electricity and that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project; or

(iii) A solar energy system, placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business, that is capable of generating up to seventy-five kilowatts of electricity, and that is owned by a company whose members are each eligible for an investment cost recovery incentive for the same customer-generated electricity as provided in RCW 82.16.120.

(b) For the purposes of "community solar project" as defined in (a) of this subsection:

(i) "Company" means an entity that is:

(A)(I) A limited liability company;

(II) A cooperative formed under chapter 23.86 RCW; or

(III) A mutual corporation or association formed under chapter 24.06 RCW; and

(B) Not a "utility" as defined in this subsection (2)(b); and

(ii) "Nonprofit organization" means an organization exempt from taxation under ((Title)) 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2009; and

~~((#))~~ (iii) "Utility" means a light and power business, an electric cooperative, or a mutual corporation that provides electricity service.

~~((2))~~ (3) "Customer-generated electricity" means a community solar project or the alternating current electricity that is generated from a renewable energy system located in Washington and installed on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. Except for community solar projects, a system located on a leasehold interest does not qualify under this definition. Except for utility-owned community solar projects, "customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

~~((3))~~ (4) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

~~((4))~~ (5) "Local governmental entity" means any unit of local government of this state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

~~((5))~~ (6) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

~~((6))~~ (7) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

~~((7))~~ (8) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

~~((8))~~ (9) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

~~((9))~~ (10) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

Sec. 2. RCW 82.16.120 and 2009 c 469 s 505 are each amended to read as follows:

(1)(a) Any individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system.

(No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.)

(b) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(i), the administrator must apply for the investment cost recovery incentive on behalf of each of the other owners.

(c) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(iii), the company owning the community solar project must apply for the investment cost recovery incentive on behalf of each member of the company.

(2)(a) Before submitting for the first time the application for the incentive allowed under subsection (4) of this section, the applicant must submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system;

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the certification must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the certification must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state; or

(E) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems; and

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The

department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(3)(a) By August 1st of each year application for the incentive ~~((shall))~~ must be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the application must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the application must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section; and

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system ~~((shall))~~ must notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(c)(i) Persons, administrators of community solar projects, and companies receiving incentive payments ~~((shall))~~ must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records ~~((shall))~~ must be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and ~~((shall))~~ must add thereto interest on the amount. Interest ~~((shall be))~~ is assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(4) Except for community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

(5)~~(a)~~ No individual, household, business, or local governmental entity is eligible for incentives provided under subsection (4) of this section for more than five thousand dollars per year.

(b) Except as provided in (c) through (e) of this subsection (5), each applicant in a community solar project is eligible for up to five thousand dollars per year.

(c) Where the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible for an incentive but only in proportion to the ownership share of the project, up to five thousand dollars per year.

(d) Where the applicant is a company owning a community solar project that has applied for an investment cost recovery incentive on behalf of its members, each member of the company is eligible for an incentive that would otherwise belong to the company but only in proportion to each ownership share of the company, up to five thousand dollars per year. The company itself is not eligible for incentives under this section.

(e) In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to five thousand dollars per year.

(6) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments ~~((shall))~~ must be reduced proportionately.

(7) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(8) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive.

(9) No incentive may be paid under this section for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.

**Sec. 3.** RCW 82.16.130 and 2009 c 469 s 506 are each amended to read as follows:

(1) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under RCW 82.16.120. The credit shall be taken in a form and manner as required by the department. The credit under this section for the fiscal year may not exceed one percent of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or one hundred thousand dollars, whichever is greater. Incentive payments to participants in a utility-owned community solar project as defined in RCW 82.16.110~~((+))~~ (2)(a)(ii) may only account for up to twenty-five percent of the total allowable credit. Incentive payments to participants in a company-owned community solar project as defined in RCW 82.16.110(2)(a)(iii) may only account for up to five percent of the total allowable credit. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(2) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120, the amount of tax against which credit was claimed for the excess payments shall be immediately due and payable. The department shall assess interest but not penalties on the taxes against which the credit was claimed. Interest shall be assessed at the rate

provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and shall accrue until the taxes against which the credit was claimed are repaid.

(3) The right to earn tax credits under this section expires June 30, 2020. Credits may not be claimed after June 30, 2021.

**Sec. 4.** RCW 82.16.140 and 2005 c 300 s 5 are each amended to read as follows:

(1) Using existing sources of information, the department (~~shall~~) must report to the house appropriations committee, the house committee dealing with energy issues, the senate committee on ways and means, and the senate committee dealing with energy issues by December 1, (~~2009~~) 2014. The report (~~shall~~) must measure the impacts of (~~chapter 300, Laws of 2005~~) RCW 82.16.110 through 82.16.130, including the total number of solar energy system manufacturing companies in the state, any change in the number of solar energy system manufacturing companies in the state since July 1, 2005, and, where relevant, the effect on job creation, the number of jobs created for Washington residents, and such other factors as the department selects.

(2) The department (~~shall~~) may not conduct any new surveys to provide the report in subsection (1) of this section.

(3) For the purposes of this section, "company" has the same meaning as provided in RCW 82.04.030.

**NEW SECTION. Sec. 5.** A new section is added to chapter 82.16 RCW to read as follows:

Owners of a community solar project as defined in RCW 82.16.110(2)(a) (i) and (iii) must agree to hold harmless the light and power business serving the situs of the system, including any employee, for the good faith reliance on the information contained in an application or certification submitted by an administrator or company. In addition, the light and power business and any employee is immune from civil liability for the good faith reliance on any misstatement that may be made in such application or certification. Should a light and power business or employee prevail upon the defense provided in this section, it is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense."

Correct the title.

Representative McCoy moved the adoption of amendment (1543) to amendment (1351).

On page 7, line 29 of the striking amendment, strike "one" and insert "~~(one)~~ one-half"

Representatives McCoy and Crouse spoke in favor of the adoption of the amendment to the amendment.

Amendment (1543) to amendment (1351) was adopted.

Amendment (1351) was adopted as amended.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives McCoy and Crouse spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6658, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6658, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Green.

Excused: Representative Condotta.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6658, as amended by the House, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

#### SIGNED BY THE SPEAKER

The Speaker signed the following:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1597  
SUBSTITUTE HOUSE BILL NO. 2196  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2424  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2547  
SUBSTITUTE HOUSE BILL NO. 2596  
SUBSTITUTE HOUSE BILL NO. 2745  
SUBSTITUTE HOUSE BILL NO. 2758  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2925  
SUBSTITUTE HOUSE BILL NO. 3046  
HOUSE BILL NO. 3030  
SECOND SUBSTITUTE HOUSE BILL NO. 3076  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3179  
SENATE BILL NO. 6243  
SENATE BILL NO. 6308  
SUBSTITUTE SENATE BILL NO. 6344  
SUBSTITUTE SENATE BILL NO. 6349  
SUBSTITUTE SENATE BILL NO. 6350  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6381  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6403  
SENATE BILL NO. 6401  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6468  
SUBSTITUTE SENATE BILL NO. 6470  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6476  
SUBSTITUTE SENATE BILL NO. 6485  
SENATE BILL NO. 6481  
SUBSTITUTE SENATE BILL NO. 6520  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6538  
SUBSTITUTE SENATE BILL NO. 6548  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.  
6561  
SECOND SUBSTITUTE SENATE BILL NO. 6575  
SECOND SUBSTITUTE SENATE BILL NO. 6578  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6582

## ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.

6609  
 SUBSTITUTE SENATE BILL NO. 6611  
 SENATE BILL NO. 6593  
 SUBSTITUTE SENATE BILL NO. 6614  
 SUBSTITUTE SENATE BILL NO. 6639  
 SUBSTITUTE SENATE BILL NO. 6647  
 SECOND SUBSTITUTE SENATE BILL NO. 6667  
 SECOND SUBSTITUTE SENATE BILL NO. 6679  
 SUBSTITUTE SENATE BILL NO. 6688  
 SUBSTITUTE SENATE BILL NO. 6692  
 SECOND SUBSTITUTE SENATE BILL NO. 6702  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6726  
 SENATE BILL NO. 6804  
 SUBSTITUTE SENATE BILL NO. 6832  
 SENATE BILL NO. 6826

The Speaker called upon Representative Morris to preside.

**MESSAGE FROM THE SENATE**

March 11, 2010

Mr. Speaker:

The Senate concurred in the House amendment to the following bills and passed the bills as amended by the House:

SUBSTITUTE SENATE BILL 6759  
 SENATE BILL 6833

and the same are herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the eighth order of business.

There being no objection, the Committee on Finance was relieved of SENATE BILL NO. 6855 and the bill was placed on the second reading calendar.

**MESSAGE FROM THE SENATE**

March 6, 2010

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 6345 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

There being no objection, the House reverted to the seventh order of business.

**HOUSE AMENDMENT TO SENATE BILL**

There being no objection, the House receded from its amendment to SUBSTITUTE SENATE BILL NO. 6345 and placed the bill on final passage.

**FINAL PASSAGE OF SENATE BILL WITHOUT HOUSE AMENDMENT**

Representative Carlyle spoke in favor of the passage of the bill.

Representative Roach spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6345 without the House amendment.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6345, and the bill passed the House by the following vote: Yeas, 60; Nays, 37; Absent, 0; Excused, 1.

Voting yea: Representatives Angel, Appleton, Armstrong, Carlyle, Chase, Clibborn, Cody, Conway, Dickerson, Driscoll, Eddy, Ericks, Fagan, Finn, Flannigan, Green, Haler, Hasegawa, Hope, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Klippert, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Nealey, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Priest, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Upthegrove, Van De Wege, Wallace, Walsh, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Bailey, Blake, Campbell, Chandler, Crouse, Dammeyer, Darneille, DeBolt, Dunshee, Ericksen, Goodman, Haigh, Herrera, Hinkle, Hudgins, Johnson, Kirby, Kretz, Kristiansen, McCune, Morris, Orcutt, Parker, Pearson, Pettigrew, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Takko, Taylor and Warnick.

Excused: Representative Condotta.

SUBSTITUTE SENATE BILL NO. 6345, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 8, 2010

Mr. Speaker:

The President ruled that the House amendment is outside the "scope and object" of the measure. The Senate refused to concur in the House amendments to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

**HOUSE AMENDMENT TO SENATE BILL**

There being no objection, the House receded from its amendment. The rules were suspended and ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

**SECOND READING**

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696, by Senate Committee on Ways & Means (originally sponsored by Senators McAuliffe, King, Gordon, Oemig, Hobbs, Kauffman, McDermott, Roach, Berkey, Murray, Tom, Prentice, Haugen, Fairley, Kline, Rockefeller, Keiser, Marr, Ranker, Regala, Eide, Kilmer, Hargrove, Franklin, Shin and Kohl-Welles)**

**Regarding education reform.**

Representative Sullivan moved the adoption of amendment (1657).

Strike everything after the enacting clause and insert the following:

**"PART I  
 ACCOUNTABILITY FRAMEWORK**



**NEW SECTION. Sec. 101.** The legislature finds that it is the state's responsibility to create a coherent and effective accountability framework for the continuous improvement for all schools and districts. This system must provide an excellent and equitable education for all students; an aligned federal/state accountability system; and the tools necessary for schools and districts to be accountable. These tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, and if necessary, intervention.

The office of the superintendent of public instruction is responsible for developing and implementing the accountability tools to build district capacity and working within federal and state guidelines. The legislature assigned the state board of education responsibility and oversight for creating an accountability framework. This framework provides a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. Such a system will identify schools and their districts for recognition as well as for additional state support. For a specific group of challenged schools, defined as persistently lowest-achieving schools, and their districts, it is necessary to provide a required action process that creates a partnership between the state and local district to target funds and assistance to turn around the identified lowest-achieving schools.

Phase I of this accountability system will recognize schools that have done an exemplary job of raising student achievement and closing the achievement gaps using the state board of education's accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps. Phase I will also target the lowest five percent of persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models through a voluntary option in 2010, and for those who do not volunteer and have not improved student achievement, a required action process beginning in 2011.

Phase II of this accountability system will work toward implementing the state board of education's accountability index for identification of schools in need of improvement, including those that are not Title I schools, and the use of state and local intervention models and state funds through a required action process beginning in 2013, in addition to the federal program. Federal approval of the state board of education's accountability index must be obtained or else the federal guidelines for persistently lowest-achieving schools will continue to be used.

The expectation from implementation of this accountability system is the improvement of student achievement for all students to prepare them for postsecondary education, work, and global citizenship in the twenty-first century.

**NEW SECTION. Sec. 102.** (1) Beginning in 2010, and each year thereafter, by December 1st, the superintendent of public instruction shall annually identify schools as one of the state's persistently lowest-achieving schools if the school is a Title I school, or a school that is eligible for but does not receive Title I funds, that is among the lowest-achieving five percent of Title I or Title I eligible schools in the state.

(2) The criteria for determining whether a school is among the persistently lowest-achieving five percent of Title I schools, or Title I eligible schools, under subsection (1) of this section shall be established by the superintendent of public instruction. The criteria must meet all applicable requirements for the receipt of a federal school improvement grant under the American recovery and reinvestment act of 2009 and Title I of the elementary and secondary education act of 1965, and take into account both:

(a) The academic achievement of the "all students" group in a school in terms of proficiency on the state's assessment, and any alternative assessments, in reading and mathematics combined; and

(b) The school's lack of progress on the mathematics and reading assessments over a number of years in the "all students" group.

**NEW SECTION. Sec. 103.** (1) Beginning in January 2011, the superintendent of public instruction shall annually recommend to the state board of education school districts for designation as required action districts. A district with at least one school identified as a persistently lowest-achieving school shall be designated as a required action district if it meets the criteria developed by the superintendent of public instruction. However, a school district shall not be recommended for designation as a required action district if the district was awarded a federal school improvement grant by the superintendent in 2010 and for three consecutive years following receipt of the grant implemented a federal school intervention model at each school identified for improvement. The state board of education may designate a district that received a school improvement grant in 2010 as a required action district if after three years of voluntarily implementing a plan the district continues to have a school identified as persistently lowest-achieving and meets the criteria for designation established by the superintendent of public instruction.

(2) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for designation as a required action district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration shall be limited to a determination of whether the school district met the criteria for being recommended as a required action district. A request for reconsideration must be in writing and served on the superintendent of public instruction within ten days of service of the notice of the superintendent's recommendation.

(3) The state board of education shall annually designate those districts recommended by the superintendent in subsection (1) of this section as required action districts. A district designated as a required action district shall be required to notify all parents of students attending a school identified as a persistently lowest-achieving school in the district of the state board of education's designation of the district as a required action district and the process for complying with the requirements set forth in sections 104 through 110 of this act.

**NEW SECTION. Sec. 104.** (1) The superintendent of public instruction shall contract with an external review team to conduct an academic performance audit of the district and each persistently lowest-achieving school in a required action district to identify the potential reasons for the school's low performance and lack of progress. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from the agency, the school district that is the subject of the audit, or members or staff of the state board of education.

(2) The audit must be conducted based on criteria developed by the superintendent of public instruction and must include but not be limited to an examination of the following:

- (a) Student demographics;
- (b) Mobility patterns;
- (c) School feeder patterns;
- (d) The performance of different student groups on assessments;
- (e) Effective school leadership;
- (f) Strategic allocation of resources;
- (g) Clear and shared focus on student learning;
- (h) High standards and expectations for all students;
- (i) High level of collaboration and communication;
- (j) Aligned curriculum, instruction, and assessment to state standards;
- (k) Frequency of monitoring of learning and teaching;
- (l) Focused professional development;

- (m) Supportive learning environment;
- (n) High level of family and community involvement;
- (o) Alternative secondary schools best practices; and
- (p) Any unique circumstances or characteristics of the school or district.

(3) Audit findings must be made available to the local school district, its staff, the community, and the state board of education.

**NEW SECTION. Sec. 105.** (1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan;

(b) Submission of an application for a federal school improvement grant or a grant from other federal funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; and

(e) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after the effective date of this section must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall

request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant or a grant from other federal funds for school improvement to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant or other federal funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school

districts designated as required action districts to implement one of the four federal models in a required action plan.

**NEW SECTION. Sec. 106.** A required action plan developed by a district's school board and superintendent must be submitted to the state board of education for approval. The state board must accept for inclusion in any required action plan the final decision by the superior court on any issue certified by the executive director of the public employment relations commission under the process in section 105 of this act. The state board of education shall approve a plan proposed by a school district only if the plan meets the requirements in section 105 of this act and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement. Any addendum or modification to an existing collective bargaining agreement, negotiated under section 105 of this act or by agreement of the district and the exclusive bargaining unit, related to student achievement or school improvement shall not go into effect until approval of a required action plan by the state board of education. If the state board does not approve a proposed plan, it must notify the local school board and local district's superintendent in writing with an explicit rationale for why the plan was not approved. Nonapproval by the state board of education of the local school district's initial required action plan submitted is not intended to trigger any actions under section 108 of this act. With the assistance of the office of the superintendent of public instruction, the superintendent and school board of the required action district shall either: (a) Submit a new plan to the state board of education for approval within forty days of notification that its plan was rejected, or (b) submit a request to the required action plan review panel established under section 107 of this act for reconsideration of the state board's rejection within ten days of the notification that the plan was rejected. If federal funds are not available, the plan is not required to be implemented until such funding becomes available. If federal funds for this purpose are available, a required action plan must be implemented in the immediate school year following the district's designation as a required action district.

**NEW SECTION. Sec. 107.** (1) A required action plan review panel shall be established to offer an objective, external review of a request from a school district for reconsideration of the state board of education's rejection of the district's required action plan. The review and reconsideration by the panel shall be based on whether the state board of education gave appropriate consideration to the unique circumstances and characteristics identified in the academic performance audit of the local school district whose required action plan was rejected.

(2)(a) The panel shall be composed of five individuals with expertise in school improvement, school and district restructuring, or parent and community involvement in schools. Two of the panel members shall be appointed by the speaker of the house of representatives; two shall be appointed by the president of the senate; and one shall be appointed by the governor.

(b) The speaker of the house of representatives, president of the senate, and governor shall solicit recommendations for possible panel members from the Washington association of school administrators, the Washington state school directors' association, the association of Washington school principals, the achievement gap oversight and accountability committee, and associations representing certificated teachers, classified school employees, and parents.

(c) Members of the panel shall be appointed no later than December 1, 2010, but the superintendent of public instruction shall convene the panel only as needed to consider a school district's request for reconsideration. Appointments shall be for a four-year term, with opportunity for reappointment. Reappointments in the case of a vacancy shall be made expeditiously so that all requests are considered in a timely manner.

(3) The required action plan review panel may reaffirm the decision of the state board of education, recommend that the state

board reconsider the rejection, or recommend changes to the required action plan that should be considered by the district and the state board of education to secure approval of the plan. The state board of education shall consider the recommendations of the panel and issue a decision in writing to the local school district and the panel. If the school district must submit a new required action plan to the state board of education, the district must submit the plan within forty days of the board's decision.

(4) The state board of education and superintendent of public instruction must develop timelines and procedures for the deliberations under this section so that school districts can implement a required action plan within the time frame required under section 106 of this act.

**NEW SECTION. Sec. 108.** The state board of education may direct the superintendent of public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan by the beginning of the school year in which the plan is intended to be implemented, to redirect the district's Title I funds based on the academic performance audit findings.

**NEW SECTION. Sec. 109.** A school district must implement a required action plan upon approval by the state board of education. The office of superintendent of public instruction must provide the required action district with technical assistance and federal school improvement grant funds or other federal funds for school improvement, if available, to implement an approved plan. The district must submit a report to the superintendent of public instruction that provides the progress the district is making in meeting the student achievement goals based on the state's assessments, identifying strategies and assets used to solve audit findings, and establishing evidence of meeting plan implementation benchmarks as set forth in the required action plan.

**NEW SECTION. Sec. 110.** (1) The superintendent of public instruction must provide a report twice per year to the state board of education regarding the progress made by all school districts designated as required action districts.

(2) The superintendent of public instruction must recommend to the state board of education that a school district be released from the designation as a required action district after the district implements a required action plan for a period of three years; has made progress, as defined by the superintendent of public instruction, in reading and mathematics on the state's assessment over the past three consecutive years; and no longer has a school within the district identified as persistently lowest achieving. The state board shall release a school district from the designation as a required action district upon confirmation that the district has met the requirements for a release.

(3) If the state board of education determines that the required action district has not met the requirements for release, the district remains in required action and must submit a new or revised plan under the process in section 105 of this act.

**Sec. 111.** RCW 28A.305.225 and 2009 c 548 s 503 are each amended to read as follows:

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

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools

and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance. ~~((Once the accountability index has identified schools that need additional help, a more thorough analysis will be done to analyze specific conditions in the district including but not limited to the level of state resources a school or school district receives in support of the basic education system, achievement gaps for different groups of students, and community support.~~

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

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

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

~~—(5))~~ (3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the state board of education accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.

~~—(4)~~ (4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

~~((6))~~ (5) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in section 112, chapter 548, Laws of 2009 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for

schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.

NEW SECTION. Sec. 112. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "All students group" means those students in grades three through eight and high school who take the state's assessment in reading and mathematics required under 20 U.S.C. Sec. 6311(b)(3).

(2) "Title I" means Title I, part A of the federal elementary and secondary education act of 1965 (ESEA) (20 U.S.C. Secs. 6311-6322).

NEW SECTION. Sec. 113. The superintendent of public instruction and the state board of education may each adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter.

NEW SECTION. Sec. 114. (1) The legislature finds that a unified and equitable system of education accountability must include expectations and benchmarks for improvement, along with support for schools and districts to make the necessary changes that will lead to success for all students. Such a system must also clearly address the consequences for persistent lack of improvement. Establishing a process for school districts to prepare and implement a required action plan is one such consequence. However, to be truly accountable to students, parents, the community, and taxpayers, the legislature must also consider what should happen if a required action district continues not to make improvement after an extended period of time. Without an answer to this significant question, the state's system of education accountability is incomplete. Furthermore, accountability must be appropriately shared among various levels of decision makers, including in the building, in the district, and at the state.

(2)(a) A joint select committee on education accountability is established beginning no earlier than May 1, 2012, with the following members:

(i) The president of the senate shall appoint two members from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives.

(b) The committee shall choose its cochairs from among its membership.

(3) The committee shall:

(a) Identify and analyze options for a complete system of education accountability, particularly consequences in the case of persistent lack of improvement by a required action district;

(b) Identify and analyze appropriate decision-making responsibilities and accompanying consequences at the building, district, and state level within such an accountability system;

(c) Examine models and experiences in other states;

(d) Identify the circumstances under which significant state action may be required; and

(e) Analyze the financial, legal, and practical considerations that would accompany significant state action.

(4) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(5) The committee shall submit an interim report to the education committees of the legislature by September 1, 2012, and a final report with recommendations by September 1, 2013.

(6) This section expires June 30, 2014.

## PART II EVALUATIONS

**Sec. 201.** RCW 28A.150.230 and 2006 c 263 s 201 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the

proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its superintendent, classified staff, certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum. Each district shall report annually to the superintendent of public instruction the following for each employee group listed in this subsection (2)(a): (i) Evaluation criteria and rubrics; (ii) a description of each rating; and (iii) the number of staff in each rating;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs and data, based upon a plan to ensure that the assignment policy: (i) Supports the learning needs of all the students in the district; and (ii) gives specific attention to high-need schools and classrooms;

(c) Provide information to the local community and its electorate describing the school district's policies concerning hiring, assigning, terminating, and evaluating staff, including the criteria for evaluating teachers and principals;

(d) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules of the state board of education;

~~((d))~~ (e) Determine the allocation of staff time, whether certificated or classified;

~~((e))~~ (f) Establish final curriculum standards consistent with law and rules of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

~~((f))~~ (g) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

**Sec. 202.** RCW 28A.405.100 and 1997 c 278 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

(b) Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

(2)(a) Pursuant to the implementation schedule established in subsection (7)(b) of this section, every board of directors shall, in accordance with procedures provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish revised evaluative criteria and a four-level rating system for all certificated classroom teachers.

(b) The minimum criteria shall include: (i) Centering instruction on high expectations for student achievement; (ii) demonstrating effective teaching practices; (iii) recognizing individual student learning needs and developing strategies to address those needs; (iv) providing clear and intentional focus on subject matter content and curriculum; (v) fostering and managing a safe, positive learning environment; (vi) using multiple student data elements to modify instruction and improve student learning; (vii) communicating and collaborating with parents and school community; and (viii) exhibiting collaborative and collegial practices focused on improving instructional practice and student learning.

(c) The four-level rating system used to evaluate the certificated classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When student growth data, if available and relevant to the teacher and subject matter, is referenced in the evaluation process it must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

~~(3)(a)~~ Except as provided in subsection ((~~5~~)) (10) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel(~~, hereinafter referred to as "employees" in this section,~~) shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. An employee in the third year of provisional status as defined in RCW 28A.405.220 shall be observed at least three times in the performance of his or her duties and the total observation time for the school year shall not be less than ninety minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(b) As used in this subsection and subsection (4) of this section, "employees" means classroom teachers and certificated support personnel.

~~(4)(a)~~ At any time after October 15th, an employee whose work is not judged (~~unsatisfactory~~) satisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at

least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

(b) Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and improvement program, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

~~((2))~~ (5) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Except as provided in subsection (6) of this section, such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

~~((3))~~ (6)(a) Pursuant to the implementation schedule established by subsection (7)(b) of this section, every board of directors shall establish revised evaluative criteria and a four-level rating system for principals.

(b) The minimum criteria shall include: (i) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; (ii) demonstrating commitment to closing the achievement gap; (iii) providing for school safety; (iv) leading the development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; (v) assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; (vi) monitoring, assisting, and evaluating effective instruction and assessment practices; (vii) managing both staff and fiscal resources to support student achievement and legal responsibilities; and (viii) partnering with the school community to promote student learning.

(c) The four-level rating system used to evaluate the principal must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When available, student growth data that is referenced in the evaluation process must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(7)(a) The superintendent of public instruction, in collaboration with state associations representing teachers, principals,

administrators, and parents, shall create models for implementing the evaluation system criteria, student growth tools, professional development programs, and evaluator training for certificated classroom teachers and principals. Human resources specialists, professional development experts, and assessment experts must also be consulted. Due to the diversity of teaching assignments and the many developmental levels of students, classroom teachers and principals must be prominently represented in this work. The models must be available for use in the 2011-12 school year.

(b) A new certificated classroom teacher evaluation system that implements the provisions of subsection (2) of this section and a new principal evaluation system that implements the provisions of subsection (6) of this section shall be phased-in beginning with the 2010-11 school year by districts identified in (c) of this subsection and implemented in all school districts beginning with the 2013-14 school year.

(c) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of new certificated classroom teacher and principal evaluation systems during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (i) The agreement of the local associations representing classroom teachers and principals to collaborate with the district in this developmental work and (ii) the agreement to participate in the full range of development and implementation activities, including: Development of rubrics for the evaluation criteria and ratings in subsections (2) and (6) of this section; identification of or development of appropriate multiple measures of student growth in subsections (2) and (6) of this section; development of appropriate evaluation system forms; participation in professional development for principals and classroom teachers regarding the content of the new evaluation system; participation in evaluator training; and participation in activities to evaluate the effectiveness of the new systems and support programs. The school districts must submit to the office of the superintendent of public instruction data that is used in evaluations and all district-collected student achievement, aptitude, and growth data regardless of whether the data is used in evaluations. If the data is not available electronically, the district may submit it in nonelectronic form. The superintendent of public instruction must analyze the districts' use of student data in evaluations, including examining the extent that student data is not used or is underutilized. The superintendent of public instruction must also consult with participating districts and stakeholders, recommend appropriate changes, and address statewide implementation issues. The superintendent of public instruction shall report evaluation system implementation status, evaluation data, and recommendations to appropriate committees of the legislature and governor by July 1, 2011, and at the conclusion of the development phase by July 1, 2012. In the July 1, 2011 report, the superintendent shall include recommendations for whether a single statewide evaluation model should be adopted, whether modified versions developed by school districts should be subject to state approval, and what the criteria would be for determining if a school district's evaluation model meets or exceeds a statewide model. The report shall also identify challenges posed by requiring a state approval process.

~~(8)~~ Each certificated ~~(employee)~~ classroom teacher and certificated support personnel shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

~~((4))~~ (9) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated ~~(employees)~~ classroom teachers and certificated support personnel or administrators in accordance with this section, as now or hereafter

amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

~~((5))~~ (10) After ~~((an employee))~~ a certificated classroom teacher or certificated support personnel has four years of satisfactory evaluations under subsection (1) of this section or has received one of the two top ratings for four years under subsection (2) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) or (2) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) or (2) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. A locally bargained short-form evaluation emphasizing professional growth must provide that the professional growth activity conducted by the certificated classroom teacher be specifically linked to one or more of the certificated classroom teacher evaluation criteria. However, the evaluation process set forth in subsection (1) or (2) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) or (2) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) or (2) of this section may be used as a basis for determining that an employee's work is ~~((unsatisfactory))~~ not satisfactory under subsection (1) or (2) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.

**Sec. 203.** RCW 28A.405.220 and 2009 c 57 s 2 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first ~~((two))~~ three years of employment by such district, unless: (a) The employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district; or (b) the school district superintendent may make a determination to remove an employee from provisional status if the employee has received one of the top two evaluation ratings during the second year of employment by the district. Employees as defined in this section shall hereinafter be referred to as "provisional employees(“)."

(2) In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

(3) Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within

ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

(4) Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

(5) The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

(6) This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

**NEW SECTION. Sec. 204.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Representatives of the office of the superintendent of public instruction and statewide associations representing administrators, principals, human resources specialists, and certificated classroom teachers shall analyze how the evaluation systems in RCW 28A.405.100 (2) and (6) affect issues related to a change in contract status.

(2) The analysis shall be conducted during each of the phase-in years of the certificated classroom teacher and principal evaluation systems. The analysis shall include: Procedures, timelines, probationary periods, appeal procedures, and other items related to the timely exercise of employment decisions and due process provisions for certificated classroom teachers and principals.

**NEW SECTION. Sec. 205.** A new section is added to chapter 28A.405 RCW to read as follows:

If funds are provided for professional development activities designed specifically for first through third-year teachers, the funds shall be allocated first to districts participating in the evaluation systems in RCW 28A.405.100 (2) and (6) before the required implementation date under that section.

### PART III

#### PRINCIPAL PERFORMANCE

**NEW SECTION. Sec. 301.** The legislature finds that the presence of highly effective principals in schools has never been more important than it is today. To enable students to meet high academic standards, principals must lead and encourage teams of teachers and support staff to work together, align curriculum and instruction, use student data to target instruction and intervention strategies, and serve as the chief school officer with parents and the community. Greater responsibility should come with greater authority over personnel, budgets, resource allocation, and programs. But greater responsibility also comes with greater accountability for outcomes. Washington is

putting into place an updated and rigorous system of evaluating principal performance, one that will measure what matters. This system will never be truly effective unless the results are meaningfully used.

**NEW SECTION. Sec. 302.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Any certificated employee of a school district under this section who is first employed as a principal after the effective date of this section shall be subject to transfer as provided under this section, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section means any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator. This section applies only to school districts with an annual average student enrollment of more than thirty-five thousand full-time equivalent students.

(2) During the first three consecutive school years of employment as a principal by the school district, or during the first full school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position may be made by a determination of the superintendent that the best interests of the school district would be served by the transfer.

(3) Commencing with the fourth consecutive school year of employment as a principal, or the second consecutive school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position shall be based on the superintendent's determination that the results of the evaluation of the principal's performance using the evaluative criteria and rating system established under RCW 28A.405.100 provide a valid reason for the transfer without regard to whether there is probable cause for the transfer. If a valid reason is shown, it shall be deemed that the transfer is reasonably related to the principal's performance. No probationary period is required. However, provision of support and an attempt at remediation of the performance of the principal, as defined by the superintendent, are required for a determination by the superintendent under this subsection that the principal should be transferred to a subordinate certificated position.

(4) Any superintendent transferring a principal under this section to a subordinate certificated position shall notify that principal in writing on or before May 15th before the beginning of the school year of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th. The notification shall state the reason or reasons for the transfer and shall identify the subordinate certificated position to which the principal will be transferred. The notification shall be served upon the principal personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

(5) Any principal so notified may request to the president or chair of the board of directors of the district, in writing and within ten days after receiving notice, an opportunity to meet informally with the board of directors in an executive session for the purpose of requesting the board to reconsider the decision of the superintendent, and shall be given such opportunity. The board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall give the principal written notice at least three days before the meeting of the date, time, and place of the meeting. At the meeting the principal shall be given the opportunity to refute any evidence upon which the determination was based and to make any argument in support of his or her request for

reconsideration. The principal and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the principal in writing of its final decision within ten days following its meeting with the principal. No appeal to the courts shall lie from the final decision of the board of directors to transfer a principal to a subordinate certificated position.

(6) This section provides the exclusive means for transferring a certificated employee first employed by a school district under this section as a principal after the effective date of this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

**Sec. 303.** RCW 28A.405.210 and 2009 c 57 s 1 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the Washington professional educator standards board for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.



This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a nonrenewal of contract for the purposes of this section.

**Sec. 304.** RCW 28A.405.230 and 2009 c 57 s 3 are each amended to read as follows:

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: **PROVIDED**, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976, and to all persons so employed at any time thereafter, except that section 302 of this act applies to persons first employed after the effective date of this section as a principal by a school district meeting the criteria of section 302 of this act. This section provides the exclusive means for transferring an administrator subject to this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

**Sec. 305.** RCW 28A.405.300 and 1990 c 33 s 395 are each amended to read as follows:

In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW 28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a discharge or other adverse action against contract status for the purposes of this section.

#### **PART IV ENCOURAGING INNOVATIONS**

**Sec. 401.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a master's degree shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a master's degree and zero years of service;

(3)(a) The actual average salary paid to certificated instructional staff shall not exceed the district's average certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating

appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, ~~for~~ for additional responsibilities, ((or) for incentives, or for implementing specific measurable innovative activities, including professional development, specified by the school district to: (a) Close one or more achievement gaps, (b) focus on development of science, technology, engineering, and mathematics (STEM) learning opportunities, or (c) provide arts education. Beginning September 1, 2011, school districts shall annually provide a brief description of the innovative activities included in any supplemental contract to the office of the superintendent of public instruction. The office of the superintendent of public instruction shall summarize the district information and submit an annual report to the education committees of the house of representatives and the senate. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this section for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

#### PART V

#### EXPANDING PROFESSIONAL PREPARATION OPTIONS AND WORKFORCE INFORMATION

NEW SECTION. Sec. 501. A new section is added to chapter 28A.410 RCW to read as follows:

(1) Beginning with the 2011-12 school year, all professional educator standards board-approved teacher preparation programs must administer to all preservice candidates the evidence-based assessment of teaching effectiveness adopted by the professional educator standards board. The professional educator standards board shall adopt rules that establish a date during the 2012-13 school year after which candidates completing teacher preparation programs must successfully pass this assessment. Assessment results from persons completing each preparation program must be reported annually by the professional educator standards board to the governor and the education and fiscal committees of the legislature by December 1st.

(2) The professional educator standards board and the superintendent of public instruction, as determined by the board, may contract with one or more third parties for:

(a) The administration, scoring, and reporting of scores of the assessment under this section;

(b) Related clerical and administrative activities; or

(c) Any combination of the purposes of this subsection (2).

(3) Candidates for residency certification who are required to successfully complete the assessment under this section, and who are charged a fee for the assessment by a third party contracted with under this section, shall pay the fee charged by the contractor directly to the contractor. Such fees shall be reasonably related to the actual costs of the contractor in providing the assessment.

NEW SECTION. Sec. 502. A new section is added to chapter 28A.410 RCW to read as follows:

(1) By September 30, 2010, the professional educator standards board shall review and revise teacher and administrator preparation

program approval standards and proposal review procedures at the residency certificate level to ensure they are rigorous and appropriate standards for an expanded range of potential providers, including community college and nonhigher education providers. All approved providers must adhere to the same standards and comply with the same requirements.

(2) Beginning September 30, 2010, the professional educator standards board must accept proposals for community college and nonhigher education providers of educator preparation programs. Proposals must be processed and considered by the board as expeditiously as possible.

(3) By September 1, 2011, all professional educator standards board-approved residency teacher preparation programs at institutions of higher education as defined in RCW 28B.10.016 not currently a partner in an alternative route program approved by the professional educator standards board must submit to the board a proposal to offer one or more of the alternative route programs that meet the requirements of RCW 28A.660.020 and 28A.660.040.

**Sec. 503.** RCW 28A.660.020 and 2006 c 263 s 816 are each amended to read as follows:

(1) ~~(Each)~~ The professional educator standards board shall transition the alternative route partnership grant program from a separate competitive grant program to a preparation program model to be expanded among approved preparation program providers. Alternative routes are partnerships between professional educator standards board-approved preparation programs, Washington school districts, and other partners as appropriate.

(2) Each prospective teacher preparation program provider, in cooperation with a Washington school district or consortia of school districts applying ((for the)) to operate alternative route certification program shall ((submit a)) include in its proposal to the Washington professional educator standards board ((specifying)):

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The estimated number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs ~~((that are))~~ and partnering ((with the)) district or consortia of districts;

(d) An assurance ~~((of)) that the district ((provision of)) or approved preparation program provider will provide adequate training for mentor teachers ((either through participation in a state mentor training academy or district provided training that meets state-established mentor training standards))~~ specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; ~~((and))~~

(g) A summary of procedures that provide flexible completion opportunities for candidates to achieve a residency certificate; and

(h) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship

during field experience, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. ~~((For route one and two candidates,))~~

Before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ~~((higher education))~~ teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision. ~~((For route three and four candidates, the mentor of the teacher candidate shall make the decision));~~

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the Washington professional educator standards board;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; ~~((and))~~

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program; and

(vii) A description of how the district intends for the alternative route program to support its workforce development plan and how the presence of alternative route interns will advance its school improvement plans.

~~((2))~~ (3) To the extent funds are appropriated for this purpose, ~~((districts))~~ alternative route programs may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend provided by state funds shall not exceed five hundred dollars.

**Sec. 504.** RCW 28A.660.040 and 2009 c 192 s 1 and 2009 c 166 s 1 are each reenacted and amended to read as follows:

~~((Partnership grants funded))~~ Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. ~~((For route one and two candidates,))~~ The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ~~((higher education))~~ teacher preparation program must both agree that the teacher candidate has successfully completed the program. ~~((For route three and four candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.))~~

(1) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam(~~((when available));~~ and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees

seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam(~~((when available)).~~

(3) ~~((Partnership grant))~~ Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. ~~((For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the professional educator standards board. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas.))~~ Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam(~~((when available)).~~

(4) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam ~~((s, when available))~~.

(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

**Sec. 505.** RCW 28A.660.050 and 2009 c 539 s 3 and 2009 c 192 s 2 are each reenacted and amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of ~~((the partnership grant))~~ professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through ~~((the partnership grant))~~ a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers ((and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate as provided by RCW 28A.660.045)). In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement ~~((, but not employed in positions requiring an elementary education certificate,))~~ shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**NEW SECTION. Sec. 506.** A new section is added to chapter 28A.410 RCW to read as follows:

Beginning with the 2010 school year and annually thereafter, each educational service district, in cooperation with the professional educator standards board, must convene representatives from school districts within that region and professional educator standards board-approved educator preparation programs to review district and regional educator workforce data, make biennial projections of certificate staffing needs, and identify how recruitment and enrollment plans in educator preparation programs reflect projected need.

**Sec. 507.** RCW 28B.76.335 and 2007 c 396 s 17 are each amended to read as follows:

As part of the state needs assessment process conducted by the board in accordance with RCW 28B.76.230, the board shall, in

collaboration with the professional educator standards board, assess the need for additional (~~baccalaureate~~) degree and certificate programs in Washington that specialize in teacher preparation (~~in mathematics, science, and technology~~) to meet regional or subject area shortages. If the board determines that there is a need for additional programs, then the board shall encourage the appropriate institutions of higher education or institutional sectors to create such a program.

**NEW SECTION. Sec. 508.** A new section is added to chapter 28B.76 RCW to read as follows:

(1) The board must establish boundaries for service regions for institutions of higher education as defined in RCW 28B.10.016 implementing professional educator standards board-approved educator preparation programs. Regions shall be established to encourage and support, not exclude, the reach of public institutions of higher education across the state.

(2) Based on the data in the assessment in RCW 28B.76.230 and 28B.76.335, the board shall determine whether reasonable teacher preparation program access for prospective teachers is available in each region. If access is determined to be inadequate in a region, the institution of higher education responsible for the region shall submit a plan for meeting the access need to the board.

(3) Partnerships with other teacher preparation program providers and the use of appropriate technology shall be considered. The board shall review the plan and, as appropriate, assist the institution in developing support and resources for implementing the plan.

**NEW SECTION. Sec. 509.** In conjunction with the regional needs assessments in sections 506 through 508 of this act, the council of presidents shall convene an interinstitutional work group to implement the plans developed under section 601, chapter 564, Laws of 2009 to increase the number of mathematics and science teacher endorsements and certificates. The work group must collaborate in evaluating regional needs and identifying strategies to meet those needs. The council of presidents shall report to the education and higher education committees of the legislature on demonstrated progress toward achieving outcomes identified in the plans no later than December 31, 2011.

**NEW SECTION. Sec. 510.** The following acts or parts of acts are each repealed:

(1) RCW 28A.660.010 (Partnership grant program) and 2004 c 23 s 1 & 2001 c 158 s 2;

(2) RCW 28A.415.100 (Student teaching centers--Legislative recognition--Intent) and 1991 c 258 s 1;

(3) RCW 28A.415.105 (Definitions) and 2006 c 263 s 811, 1995 c 335 s 403, & 1991 c 258 s 2;

(4) RCW 28A.415.125 (Network of student teaching centers) and 2006 c 263 s 812 & 1991 c 258 s 6;

(5) RCW 28A.415.130 (Allocation of funds for student teaching centers) and 2006 c 263 s 813 & 1991 c 258 s 7;

(6) RCW 28A.415.135 (Alternative means of teacher placement) and 1991 c 258 s 8;

(7) RCW 28A.415.140 (Field experiences) and 1991 c 258 s 9;

(8) RCW 28A.415.145 (Rules) and 2006 c 263 s 814 & 1991 c 258 s 10; and

(9) RCW 28A.660.030 (Partnership grants--Selection--Administration) and 2004 c 23 s 3, 2003 c 410 s 2, & 2001 c 158 s 4.

## PART VI COMMON CORE STANDARDS

**NEW SECTION. Sec. 601.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) By August 2, 2010, the superintendent of public instruction may revise the state essential academic learning requirements authorized under RCW 28A.655.070 for mathematics, reading, writing, and communication by provisionally adopting a common set of standards for students in grades kindergarten through twelve. The

revised state essential academic learning requirements may be substantially identical with the standards developed by a multistate consortium in which Washington participated, must be consistent with the requirements of RCW 28A.655.070, and may include additional standards if the additional standards do not exceed fifteen percent of the standards for each content area. However, the superintendent of public instruction shall not take steps to implement the provisionally adopted standards until the education committees of the house of representatives and the senate have an opportunity to review the standards.

(2) By January 1, 2011, the superintendent of public instruction shall submit to the education committees of the house of representatives and the senate:

(a) A detailed comparison of the provisionally adopted standards and the state essential academic learning requirements as of the effective date of this section, including the comparative level of rigor and specificity of the standards and the implications of any identified differences; and

(b) An estimated timeline and costs to the state and to school districts to implement the provisionally adopted standards, including providing necessary training, realignment of curriculum, adjustment of state assessments, and other actions.

(3) The superintendent may implement the revisions to the essential academic learning requirements under this section after the 2011 legislative session unless otherwise directed by the legislature.

## PART VII PARENTS AND COMMUNITY

**NEW SECTION. Sec. 701.** A new section is added to chapter 28A.605 RCW to read as follows:

School districts are encouraged to strengthen family, school, and community partnerships by creating spaces in school buildings, if space is available, where students and families can access the services they need, such as after-school tutoring, dental and health services, counseling, or clothing and food banks.

**NEW SECTION. Sec. 702.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the 2010-11 school year, each school shall conduct outreach and seek feedback from a broad and diverse range of parents, other individuals, and organizations in the community regarding their experiences with the school. The school shall summarize the responses in its annual report under RCW 28A.655.110.

(2) The office of the superintendent of public instruction shall create a working group with representatives of organizations representing parents, teachers, and principals as well as diverse communities. The working group shall also include a representative from the achievement gap oversight and accountability committee. By September 1, 2010, the working group shall develop model feedback tools and strategies that school districts may use to facilitate the feedback process required in subsection (1) of this section. The model tools and strategies are intended to provide assistance to school districts. School districts are encouraged to adapt the models or develop unique tools and strategies that best fit the circumstances in their communities.

**Sec. 703.** RCW 28A.655.110 and 1999 c 388 s 303 are each amended to read as follows:

(1) Beginning with the 1994-95 school year, to provide the local community and electorate with access to information on the educational programs in the schools in the district, each school shall publish annually a school performance report and deliver the report to each parent with children enrolled in the school and make the report available to the community served by the school. The annual performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who are not professional educators to make informed

educational decisions. As data from the assessments in RCW 28A.655.060 becomes available, the annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools are attaining mastery of the student learning goals under RCW 28A.150.210, and other important facts about the schools' performance in assisting students to learn. The annual report shall make comparisons to a school's performance in preceding years (~~and shall include school level goals under RCW 28A.655.050~~), student performance relative to the goals and the percentage of students performing at each level of the assessment, a comparison of student performance at each level of the assessment to the previous year's performance, and information regarding school-level plans to achieve the goals.

(2) The annual performance report shall include, but not be limited to: (a) A brief statement of the mission of the school and the school district; (b) enrollment statistics including student demographics; (c) expenditures per pupil for the school year; (d) a summary of student scores on all mandated tests; (e) a concise annual budget report; (f) student attendance, graduation, and dropout rates; (g) information regarding the use and condition of the school building or buildings; (h) a brief description of the learning improvement plans for the school; (i) a summary of the feedback from parents and community members obtained under section 702 of this act; and ~~((h))~~ (i) an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, and update periodically, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. In order to make school performance reports broadly accessible to the public, the superintendent of public instruction, to the extent feasible, shall make information on each school's report available on or through the superintendent's internet web site.

**NEW SECTION. Sec. 704.** A new section is added to chapter 28A.300 RCW to read as follows:

There is a sizeable body of research positively supporting the involvement of parents taking an engaged and active role in their child's education. Therefore, the legislature intends to provide state recognition by the center for the improvement of student learning within the office of the superintendent of public instruction for schools that increase the level of direct parental involvement with their child's education. By September 1, 2010, the center for the improvement of student learning shall determine measures that can be used to evaluate the level of parental involvement in a school. The center for the improvement of student learning shall collaborate with school district family and community outreach programs and educational service districts to identify and highlight successful models and practices of parent involvement.

### PART VIII COLLECTIVE BARGAINING

**Sec. 801.** RCW 41.56.100 and 1989 c 45 s 1 are each amended to read as follows:

(1) A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative~~((—PROVIDED, That nothing contained herein shall require any))~~. However, a public employer is not required to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution, or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure, and authority to the board created by chapter 41.06 RCW.

(2) Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to

the commission. This subsection does not apply to negotiations and mediations conducted between a school district employer and an exclusive bargaining representative under section 105 of this act.

(3) If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract.

**NEW SECTION. Sec. 802.** A new section is added to chapter 41.56 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**NEW SECTION. Sec. 803.** A new section is added to chapter 41.59 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**Sec. 804.** RCW 41.59.120 and 1975 1st ex.s. c 288 s 13 are each amended to read as follows:

(1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact finder and obtain a commitment from that person to serve. If they are unable to agree upon a fact finder or to obtain such a commitment within that time, either party may request the commission to designate a fact finder. The commission, within five days after receipt of such request, shall designate a fact finder in accordance with rules and regulations for such designation prescribed by the commission. The fact finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact finder.

(4) The costs for the services of the fact finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state.

(7) This section does not apply to negotiations and mediations conducted under section 105 of this act.

#### PART IX

##### CLOSING THE ACHIEVEMENT GAP

**Sec. 901.** RCW 28A.300.136 and 2009 c 468 s 2 are each amended to read as follows:

(1) An achievement gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues that disproportionately affect student achievement and student success.

(4) The achievement gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education ombudsman;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or cochairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) The superintendent of public instruction, the state board of education, the professional educator standards board, and the quality education council shall work collaboratively with the achievement gap oversight and accountability committee to close the achievement gap.

#### PART X

##### MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 1001.** RCW 28A.305.225 is recodified as a section in the chapter created in section 1002 of this act.

NEW SECTION. **Sec. 1002.** Sections 101 through 110 and 112 through 114 of this act constitute a new chapter in Title 28A RCW."

Correct the title.

Representatives Sullivan and Priest spoke in favor of the adoption of the amendment.

Amendment (1657) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Sullivan and Priest spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 6696, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6696, as amended by the House, and the bill passed the House by the following vote: Yeas, 72; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Representatives Anderson, Angel, Appleton, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Dammeier, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks,





*Format changed to accommodate amendment.*

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) It is the legislature's intent to continue implementation of chapter 548, Laws of 2009, by adopting the technical details of a new distribution formula for the instructional program of basic education and authorizing a phase-in of implementation of a new distribution formula for pupil transportation, both to take effect during the 2011-2013 biennium. Unless otherwise stated, the numeric values adopted in section 2 of this act represent the translation of 2009-2010 state funding levels for the basic education act into the funding factors of the prototypical school funding formula, based on the expert advice and extensive work of the funding formula technical working group established by the legislature for this purpose. The legislature intends to continue to review and revise the formulas and may make revisions as necessary for technical purposes and consistency in the event of mathematical or other technical errors.

(2) The legislature intends that per-pupil basic education funding for a school district shall not be decreased as a result of the transition of basic education funding formulas in effect during the 2009-2011 biennium to the new funding formulas under RCW 28A.150.260 that take effect during the 2011-2013 biennium.

(3) It is also the legislature's intent to begin phasing-in enhancements to the baseline funding levels of 2009-10 in the 2011-2013 biennium for pupil transportation, class size allocations for grades kindergarten through three, full-day kindergarten, and allocations for maintenance, supplies, and operating costs.

(4) Finally, it is the legislature's intent to adjust the timelines for other working groups so that their expertise and advice can be received as soon as possible and to make technical adjustments to certain provisions of chapter 548, Laws of 2009.

**Sec. 2.** RCW 28A.150.260 and 2009 c 548 s 106 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter ~~28A.155~~, 28A.165, 28A.180, or ~~((28A.155))~~ 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using

commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

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

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

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

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

~~((e))~~ (4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on ~~((an))~~ the following general education average class size ((as specified in the omnibus appropriations act.)) of full-time equivalent students per teacher:

General education average class size	
Grades K-3	25.23
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level	26.57
Skill center programs meeting the standards established by the office of the superintendent of public instruction	22.76

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) ~~((Basic average class size;~~

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

~~((iii))~~ (ii) A specialty average class size for ((exploratory and preparatory career and technical education,)) laboratory science, advanced placement, and international baccalaureate courses((and

~~((and~~ (iv) Average class size in grades kindergarten through three)).

~~((4))~~ (5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

- ((i) Principals, including assistant principals, and other certificated building-level administrators;
  - (ii) Teacher librarians, performing functions including information literacy, technology, and media to support school library media programs;
  - (iii) Student health services, a function that includes school nurses, whether certificated instructional or classified employee, and social workers;
  - (iv) Guidance counselors, performing functions including parent outreach and graduation advisor;
  - (v) Professional development coaches;
  - (vi) Teaching assistance, which includes any aspect of educational instructional services provided by classified employees;
  - (vii) Office support, technology support, and other noninstructional aides;
  - (viii) Custodians, warehouse, maintenance, laborer, and professional and technical education support employees; and
  - (ix) Classified staff providing student and staff safety.
- (4)(a))

	<u>Eleme</u> <u>ntary</u> <u>Schoo</u> <u>l</u>	<u>Mid</u> <u>dle</u> <u>Sch</u> <u>ool</u>	<u>Hig</u> <u>h</u> <u>Sch</u> <u>ool</u>
<u>Principals, assistant principals, and other certificated building-level administrators</u> .....	<u>1.253</u>	<u>1.3</u>	<u>1.8</u>
<u>Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs</u> .....	<u>0.663</u>	<u>0.5</u>	<u>0.5</u>
<u>Health and social services:</u>			
<u>School nurses</u> .....	<u>0.076</u>	<u>0.0</u>	<u>0.0</u>
<u>Social workers</u> .....	<u>0.042</u>	<u>0.0</u>	<u>0.0</u>
<u>Psychologists</u> .....	<u>0.017</u>	<u>0.0</u>	<u>0.0</u>
<u>Guidance counselors, a function that includes parent outreach and graduation advising</u> .....	<u>0.493</u>	<u>1.1</u>	<u>1.9</u>
<u>Teaching assistance, including any aspect of educational instructional services provided by classified employees</u> .....	<u>0.936</u>	<u>0.7</u>	<u>0.6</u>
<u>Office support and other noninstructional aides</u> .....	<u>2.012</u>	<u>2.3</u>	<u>3.2</u>
<u>Custodians</u> .....	<u>1.657</u>	<u>1.9</u>	<u>2.9</u>
<u>Classified staff providing student and staff safety</u> .....	<u>0.079</u>	<u>0.0</u>	<u>0.1</u>
<u>Parent involvement coordinators</u> .....	<u>0.00</u>	<u>0.0</u>	<u>0.0</u>

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000 K-12 students	
Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

~~(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year: ((Student technology; utilities; curriculum, textbooks, library materials, and instructional supplies; instructional professional development for both certificated and classified staff; other building level costs including maintenance, custodial, and security; and central office administration.))~~

Per annual average full-time equivalent student in grades K-12	
Technology	\$54.43
Utilities and insurance	\$147.90
Curriculum and textbooks	\$58.44
Other supplies and library materials	\$124.07
Instructional professional development for certified and classified staff	\$9.04
Facilities maintenance	\$73.27
Security and central office	\$50.76

~~(b) ((The annual average full-time equivalent student amounts in (a) of this subsection shall be enhanced))~~ During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Per annual average full-time equivalent student in grades K-12	
Technology	\$113.80
Utilities and insurance	\$309.21
Curriculum and textbooks	\$122.17
Other supplies and library materials	\$259.39
Instructional professional development for certificated and classified staff	\$18.89
Facilities maintenance	\$153.18
Security and central office administration	\$106.12

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

- (a) Exploratory career and technical education courses for students in grades seven through twelve;
- (b) Laboratory science courses for students in grades nine through twelve;
- (c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and
- (d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

~~((5))~~ (10) In addition to the allocations otherwise provided under ((subsections (3) and (4) of) this section ((shall be enhanced as follows to provide additional allocations for classroom teachers and maintenance, supplies, and operating costs)), amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be

based on the ~~((percent))~~ district percentage of students in ~~((each school))~~ grades K-12 who ~~((are))~~ were eligible for free ~~((and))~~ or reduced-price meals in the prior school year. The minimum allocation for the ~~((learning assistance))~~ program shall provide ~~((an extended school day and extended school year))~~ for each level of prototypical school ~~((and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide ~~((for supplemental instruction based on percent of the school day a student is assumed to receive supplemental instruction and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

~~((6))~~ ~~The allocations provided under subsections (3) and (4) of this section shall be enhanced.~~ (c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide ~~((an extended school day and extended school year for each level of prototypical school and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

~~((7))~~ (11) The allocations under subsections ~~((3))~~ (4)(a) and (b), ~~((c), (d), (4), (5), (6), and (8))~~ (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

~~((8))~~ The distribution formula shall include allocations to school districts to support certificated and classified staffing of central office administration. The minimum allocation shall be calculated as a percentage, identified in the omnibus appropriations act, of the total allocations for staff under subsections (3) and (6) of this section for all schools in the district.

~~((9))~~ (12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections ~~((3))~~ (4) and ~~((5))~~ (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections ~~((3))~~ and (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

~~((10))~~ (13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

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

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

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

**Sec. 3.** RCW 28A.150.390 and 2009 c 548 s 108 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 ~~((3)(b), (c)(i), and (d), (4), and (8))~~ and federal medical assistance and private funds accruing under ~~RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256~~ (4)(a) and (b), (5), (6), and (8).

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

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

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9309.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 ~~((3)(b), (c)(i), and (d), (4), and (8))~~ (4)(a) and (b), (5), (6), and (8), to be divided by the district's full-time equivalent enrollment.

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

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

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

**Sec. 4.** RCW 28A.150.315 and 2009 c 548 s 107 are each amended to read as follows:

(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. During the

2011-2013 biennium, funding shall continue to be phased-in each year until full statewide implementation of all-day kindergarten is achieved in the 2017-18 school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

- (a) Provide at least a one thousand-hour instructional program;
- (b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:
  - (i) Developing initial skills in the academic areas of reading, mathematics, and writing;
  - (ii) Developing a variety of communication skills;
  - (iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;
  - (iv) Acquiring large and small motor skills;
  - (v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and
  - (vi) Learning through hands-on experiences;
- (c) Establish learning environments that are developmentally appropriate and promote creativity;
- (d) Demonstrate strong connections and communication with early learning community providers; and
- (e) Participate in kindergarten program readiness activities with early learning providers and parents.

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

**Sec. 5.** 2009 c 548 s 112 (uncodified) is amended to read as follows:

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

(2) The office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to:

- (a) Develop the details of the funding formulas under RCW 28A.150.260;
- (b) Recommend to the legislature an implementation schedule for phasing-in any increased program or instructional requirements concurrently with increases in funding for adoption by the legislature; and

(c) Examine possible sources of revenue to support increases in funding allocations and present options to the legislature and the quality education council created in (~~section 114 of this act~~) RCW 28A.290.010 for consideration.

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

(4) The working group shall be monitored and overseen by the legislature and the quality education council established in (~~section 114 of this act~~) RCW 28A.290.010. The working group shall submit its recommendations to the legislature by December 1, 2009.

(5) After the 2009 report to the legislature, the office of financial management and the office of the superintendent of public instruction shall periodically reconvene the working group to monitor and provide advice on further development and implementation of the funding formulas under RCW 28A.150.260 and provide technical assistance to the ongoing work of the quality education council.

**Sec. 6.** 2009 c 548 s 302 (uncodified) is amended to read as follows:

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

(2) The working group shall consider the impact on overall school district revenues of the new basic education funding system established under (~~this act~~) chapter 548, Laws of 2009 and shall recommend a phase-in plan that ensures that no school district suffers a decrease in funding from one school year to the next due to implementation of the new system of supplemental funding.

(3) The working group shall also:

(a) Examine local school district capacity to address facility needs associated with phasing-in full-day kindergarten across the state and reducing class size in kindergarten through third grade; and

(b) Provide the quality education council with analysis on the potential use of local funds that may become available for redeployment and redirection as a result of increased state funding allocations for pupil transportation and maintenance, supplies, and operating costs.

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

(~~(4)~~) (5) The local funding working group shall be monitored and overseen by the legislature and by the quality education council created in (~~section 114 of this act~~) RCW 28A.290.010. The working group shall report to the legislature (~~December 1~~) June 30, 2011.

**Sec. 7.** RCW 43.41.398 and 2009 c 548 s 601 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

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

- (a) How to reduce the number of tiers within the existing salary allocation model;
- (b) How to account for labor market adjustments;
- (c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;
- (d) The role of and types of bonuses available;
- (e) Ways to accomplish salary equalization over a set number of years; and
- (f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

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

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

- (a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;
- (b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and
- (c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

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

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by ~~((December 1))~~ June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

**Sec. 8.** RCW 28A.160.192 and 2009 c 548 s 311 are each amended to read as follows:

(1) The superintendent of public instruction shall phase-in the implementation of the distribution formula under this chapter for allocating state funds to school districts for the transportation of students to and from school. The phase-in shall ~~((be according to the implementation schedule adopted by the legislature and shall))~~ begin no later than the ~~((2013-14 school year))~~ 2011-2013 biennium and be fully implemented by the 2013-2015 biennium.

(a) The formula must be developed and revised on an ongoing basis using the major cost factors in student transportation, including basic and special student loads, school district land area, average distance to school, roadway miles, and number of locations served. Factors must include all those site characteristics that are statistically significant after analysis of the data required by the revised reporting process.

(b) The formula must allocate funds to school districts based on the average predicted costs of transporting students to and from school, using a regression analysis.

(2) During the phase-in period, funding provided to school districts for student transportation operations shall be distributed on the following basis:

(a) Annually, each school district shall receive the lesser of the previous school year's pupil transportation operations allocation, or the total of allowable pupil transportation expenditures identified on the previous school year's final expenditure report to the state plus district indirect expenses using the state recovery rate identified by the superintendent; and

(b) Annually, any funds appropriated by the legislature in excess of the maintenance level funding amount for student transportation shall be distributed among school districts on a prorated basis using the difference between the amount identified in (a) of this subsection and the amount determined under the formula in RCW 28A.160.180.

~~((3))~~ The superintendent shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2009.

(4) Beginning in December 2009, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.))

**NEW SECTION. Sec. 9.** A new section is added to chapter 28A.160 RCW to read as follows:

(1) The superintendent of public instruction shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2010.

(2) Beginning in December 2010, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.

(3) This section expires June 30, 2015.

**Sec. 10.** RCW 28A.150.410 and 2007 c 403 s 1 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a statewide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260. For the purposes of this section, the staff allocations for classroom teachers, teacher librarians, guidance counselors, and

student health services staff under RCW 28A.150.260 are considered allocations for certificated instructional staff.

(2) Salary allocations for state-funded basic education certificated instructional staff shall be calculated by the superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the omnibus appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a master's degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(4) Beginning in the 2007-08 school year, the calculation of years of service for occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, and psychologists regulated under Title 18 RCW may include experience in schools and other nonschool positions as occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, or psychologists. The calculation shall be that one year of service in a nonschool position counts as one year of service for purposes of this chapter, up to a limit of two years of nonschool service. Nonschool years of service included in calculations under this subsection shall not be applied to service credit totals for purposes of any retirement benefit under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement system benefits.

**Sec. 11.** RCW 28A.175.010 and 2005 c 207 s 3 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

(a) The number of students who graduate in fewer than four years;

(b) The number of students who graduate in four years;

(c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;

(d) The number of students who transfer to other schools;

(e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and

(f) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades seven through twelve.

(3) Dropout rates for student populations in each of the grades seven through twelve by:

(a) Ethnicity;

(b) Gender;

(c) Socioeconomic status; and

(d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

(8) The Washington state institute for public policy shall calculate an annual estimate of the savings to taxpayers resulting from any improvement compared to the prior school year in the extended graduation rate, as calculated by the superintendent of public instruction. The superintendent shall include the estimate from the institute in an appendix of the report required under subsection (7) of this section, beginning with the 2010 report.

**NEW SECTION. Sec. 12.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction shall implement and maintain an internet-based portal that provides ready public access to the state's prototypical school funding model for basic education under RCW 28A.150.260. The portal must provide citizens the opportunity to view, for each local school building, the staffing levels and other prototypical school funding elements that are assumed under the state funding formula. The portal must also provide a matrix displaying how individual school districts are deploying those same state resources through their allocation of staff and other resources to school buildings, so that citizens are able to compare the state assumptions to district allocation decisions for each local school building.

**Sec. 13.** RCW 28A.150.100 and 1990 c 33 s 103 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" (~~shall~~) means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) (~~In the 1988-89 school year and thereafter,~~) Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students.

**Sec. 14.** 2009 c 548 s 710 (uncodified) is amended to read as follows:

(1) RCW 28A.150.030 (School day) and 1971 ex.s. c 161 s 1 & 1969 ex.s. c 223 s 28A.01.010;

(2) RCW 28A.150.060 (Certificated employee) and 2005 c 497 s 212, 1990 c 33 s 102, 1977 ex.s. c 359 s 17, 1975 1st ex.s. c 288 s 21, & 1973 1st ex.s. c 105 s 1;

(3) ((RCW 28A.150.100 (Basic education certificated instructional staff--Definition--Ratio to students) and 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203;

—(4)) RCW 28A.150.040 (School year--Beginning--End) and 1990 c 33 s 101, 1982 c 158 s 5, 1977 ex.s. c 286 s 1, 1975-76 2nd ex.s. c 118 s 22, & 1969 ex.s. c 223 s 28A.01.020;

((5)) (4) RCW 28A.150.370 (Additional programs for which legislative appropriations must or may be made) and 1995 c 335 s 102, 1995 c 77 s 5, 1990 c 33 s 114, 1982 1st ex.s. c 24 s 1, & 1977 ex.s. c 359 s 7; and

((6)) (5) RCW 28A.155.180 (Safety net funds--Application--Technical assistance--Annual survey) and 2007 c 400 s 8.

**Sec. 15.** RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

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

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

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

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

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

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; ~~((and))~~

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

(d) One nonlegislative representative from the achievement gap oversight and accountability committee established under RCW 28A.300.136, to be selected by the members of the committee.

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

(5)(a) The council shall submit an initial report to the governor and 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school

districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) The council shall submit a report to the governor and the legislature by December 1, 2010, that includes:

(a) Recommendations for specific strategies, programs, and funding, including funding allocations through the funding distribution formula in RCW 28A.150.260, that are designed to close the achievement gap and increase the high school graduation rate in Washington public schools. The council shall consult with the achievement gap oversight and accountability committee and the building bridges work group in developing its recommendations; and

(b) Recommendations for assuring adequate levels of state-funded classified staff to support essential school and district services.

~~(7)~~ The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the committee. Senate committee services and the house of representatives office of program research may provide additional staff support.

~~((7))~~ (8) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 16.** 2009 c 548 s 805 (uncodified) is amended to read as follows:

Sections 304 through 311 of this act take effect September 1, ~~((2013))~~ 2011.

NEW SECTION. **Sec. 17.** 2009 c 548 s 112, as amended by section 5 of this act, is codified as a section in chapter 28A.290 RCW.

NEW SECTION. **Sec. 18.** RCW 43.41.398 is recodified as a section in chapter 28A.400 RCW.

NEW SECTION. **Sec. 19.** Sections 2, 3, 4, 8, 10, 13, and 14 of this act take effect September 1, 2011.

NEW SECTION. **Sec. 20.** Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.150.260, 28A.150.390, 28A.150.315, 43.41.398, 28A.160.192, 28A.150.410, 28A.175.010, 28A.150.100, and 28A.290.010; amending 2009 c 548 s 112 (uncodified); amending 2009 c 548 s 302 (uncodified); amending 2009 c 548 s 710 (uncodified); amending 2009 c 548 s 805 (uncodified); adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.290 RCW; adding a new section to chapter 28A.400 RCW; creating a new section; recodifying RCW 43.41.398; providing effective dates; and declaring an emergency."



and the same is herewith transmitted.

Thomas Hoeman , Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2776 and advanced the bill, as amended by the Senate, to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Sullivan, Priest, Maxwell, Dammeier, Quall, Jacks and Driscoll spoke in favor of the passage of the bill.

Representatives Alexander, Orcutt and Bailey spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2776, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2776, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 71; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Representatives Anderson, Angel, Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Dammeier, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Priest, Probst, Quall, Roberts, Rodne, Rolfes, Santos, Seaquist, Sells, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Armstrong, Bailey, Campbell, Chandler, Crouse, DeBolt, Ericksen, Fagan, Herrera, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Pearson, Roach, Ross, Schmick, Shea, Short, Taylor and Warnick.

Excused: Representative Condotta.

SUBSTITUTE HOUSE BILL NO. 2776, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 10, 2010

Mr. Speaker:

The Senate receded from its amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2731. Under suspension of the rules, the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that a critical factor in the eventual successful outcome of a K-12 education is for students to begin school ready, both intellectually and socially, to

learn. The legislature also finds that, due to a variety of factors, some young children need supplemental instruction in preschool to assure that they have the opportunity to participate meaningfully and reach the necessary levels of achievement in the regular program of basic education. The legislature further finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore the legislature intends to create a program of early learning that, when fully implemented, shall be an entitlement program for eligible children.

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that the first phase of implementing the entitlement program of early learning shall be accomplished by utilizing the program standards and eligibility criteria in the early childhood education and assistance program. The legislature also intends that the implementation of subsequent phases of the program established by the ready for school act of 2010 will be aligned with the implementation of the state's all-day kindergarten program in order to maximize the gains resulting from investments in the two programs.

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

(1) "Community-based early learning providers" includes for-profit and nonprofit licensed providers of child care and preschool programs.

(2) "Program" means the program of early learning established in section 3 of this act for eligible children who are three and four years of age.

**NEW SECTION. Sec. 3. PROGRAM STANDARDS.** (1) Beginning September 1, 2011, an early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in section 4 of this act. The program must be a comprehensive program providing early childhood education and family support, options for parental involvement, and health information, screening, and referral services, as family need is determined. Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The first phase of the program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program.

(3) The director shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program:

(a) Minimum program standards, including lead teacher, assistant teacher, and staff qualifications;

(b) Approval of program providers; and

(c) Accountability and adherence to performance standards.

(4) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the director under this section;

(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers.

**NEW SECTION. Sec. 4. FUNDING AND STATEWIDE IMPLEMENTATION.** (1) Funding for the program of early learning

established under this chapter must be appropriated to the department. Allocations must be made on the basis of eligible children enrolled with eligible providers.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 2018-19 school year.

(3) For the initial phase of the early learning program in school years 2011-12 and 2012-13, the legislature shall appropriate funding to the department for implementation of the program in an amount not less than the 2009-2011 enacted budget for the early childhood education and assistance program. The appropriation shall be sufficient to fund an equivalent number of slots as funded in the 2009-2011 enacted budget.

(4) Beginning in the 2013-14 school year, additional funding for the program must be phased in beginning in school districts providing all-day kindergarten programs under RCW 28A.150.315.

(5) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved in the 2018-19 school year, at which time any eligible child shall be entitled to be enrolled in the program.

(6) The department and the office of financial management shall annually review the caseload forecasts for the program and, beginning December 1, 2012, and annually thereafter, report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding necessary to achieve statewide implementation in the 2018-19 school year.

(7) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28A.320 RCW to read as follows:

For the program of early learning established in section 3 of this act, school districts:

(1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(2) May contract with the department of early learning to deliver services under the program.

**Sec. 6.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private- public partnership and cooperate with that partnership in

pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; ~~(and)~~

(i) To develop and adopt rules for administration of the program of early learning established in section 3 of this act; and

~~\_\_\_\_\_~~ (j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

**Sec. 7.** RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services; a child eligible for special education due to disability under RCW 28A.155.020; and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

**NEW SECTION. Sec. 8.** Sections 2 through 4 and 9 of this act are each added to chapter 43.215 RCW.

**NEW SECTION. Sec. 9.** This act may be known as the ready for school act of 2010."

On page 1, line 2 of the title, after "children;" strike the remainder of the title and insert "amending RCW 43.215.020 and 43.215.405; adding new sections to chapter 43.215 RCW; adding a new section to chapter 28A.320 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2731 and advanced the bill, as amended by the Senate, to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Goodman, Haler and Kagi spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2731, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2731, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 70; Nays, 27; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Dammeier, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Priest, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Chandler, Crouse, DeBolt, Ericksen, Fagan, Herrera, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Pearson, Roach, Rodne, Ross, Schmick, Shea, Short, Smith and Taylor.

Excused: Representative Condotta.

SECOND SUBSTITUTE HOUSE BILL NO. 2731, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

### SIGNED BY THE SPEAKER

The Speaker signed the following:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1096  
SECOND SUBSTITUTE HOUSE BILL NO. 2436  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
2658  
SECOND SUBSTITUTE HOUSE BILL NO. 2731  
SUBSTITUTE HOUSE BILL NO. 2776  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876  
HOUSE BILL NO. 3061  
SUBSTITUTE HOUSE BILL NO. 3124  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3178  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3209  
SUBSTITUTE SENATE BILL NO. 6345

ENGROSSED SUBSTITUTE SENATE BILL NO. 6658  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.  
6696  
SENATE BILL NO. 6855

The Speaker called upon Representative Morris to preside.

### MESSAGES FROM THE SENATE

March 11, 2010

Mr. Speaker:

The Senate has adopted:

SENATE CONCURRENT RESOLUTION 8412  
and the same is herewith transmitted.

Thomas Hoemann, Secretary

Mr. Speaker:

The Senate concurred in the House amendment to ENGROSSED SECOND SUBSTITUTE SENATE BILL 6696 and passed the bill as amended by the House, and the same is herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The President has signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1096  
SECOND SUBSTITUTE HOUSE BILL 2436  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2658  
ENGROSSED SUBSTITUTE HOUSE BILL 2876  
HOUSE BILL 3061  
SUBSTITUTE HOUSE BILL 3124  
ENGROSSED SUBSTITUTE HOUSE BILL 3178  
ENGROSSED SUBSTITUTE HOUSE BILL 3209

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The President has signed SUBSTITUTE SENATE BILL 6345 and the same is herewith transmitted.

Thomas Hoemann, Secretary

### RESOLUTIONS

HOUSE RESOLUTION NO. 4706 by Representatives Kessler and Kretz

WHEREAS, It is necessary to provide for the continuation of the work of the House of Representatives after its adjournment and during the interim periods between legislative sessions;

NOW, THEREFORE, BE IT RESOLVED, That the Executive Rules Committee is hereby created by this resolution and shall consist of three members of the majority caucus and two members of the minority caucus, to be named by the Speaker of the House of Representatives and Minority Leader respectively; and

BE IT FURTHER RESOLVED, That the Executive Rules Committee may assign subject matters, bills, memorials, and resolutions to authorized committees of the House of Representatives for study during the interim, and the Speaker of the House of Representatives may create special and select committees as may be necessary to carry out the functions, including interim studies, of the House of Representatives in an orderly manner and shall appoint members to such committees with the approval of the Executive Rules Committee; and

BE IT FURTHER RESOLVED, That, during the interim, the schedules of and locations for all meetings of any committee or subcommittee shall be approved by the Executive Rules Committee, and those committees or subcommittees may conduct hearings and scheduling without a quorum being present; and

BE IT FURTHER RESOLVED, That, during the interim, authorized committees have the power of subpoena, the power to administer oaths, and the power to issue commissions for the examination of witnesses in accordance with chapter 44.16 RCW if and when specifically authorized by the Executive Rules Committee for specific purposes and specific subjects; and

BE IT FURTHER RESOLVED, That the Chief Clerk of the House of Representatives shall complete the work of the 2010 Regular Session of the Sixty-first Legislature during interim periods, and all details that arise therefrom, including the editing, indexing, and publishing of the journal of the House of Representatives; and

BE IT FURTHER RESOLVED, That the Chief Clerk of the House of Representatives shall make the necessary inventory of furnishings, fixtures, and supplies; and

BE IT FURTHER RESOLVED, That the Chief Clerk of the House of Representatives may approve vouchers of the members of the House of Representatives, covering expenses incurred during the interim for official business of the Legislature in accordance with policies set by the Executive Rules Committee, at the per diem rate provided by law and established by the Executive Rules Committee, for each day or major portion of a day, plus mileage at the rate provided by law and established by the Executive Rules Committee; and

BE IT FURTHER RESOLVED, That the Chief Clerk of the House of Representatives shall, during the interim, and as authorized by the Speaker of the House of Representatives, retain or hire any necessary employees and order necessary supplies, equipment, and printing to enable the House of Representatives to carry out its work promptly and efficiently, and accept committee reports, committee bills, prefiled bills, memorials, and resolutions as directed by the Rules of the House of Representatives and by Joint Rules of the Legislature; and

BE IT FURTHER RESOLVED, That the Chief Clerk of the House of Representatives shall have authority to carry out the directions of Executive Rules Committee regarding the authorization and execution of any personal services contracts or subcontracts that necessitate the expenditure of House of Representatives appropriations; and

BE IT FURTHER RESOLVED, That the Chief Clerk of the House of Representatives shall execute the necessary vouchers upon which warrants are drawn for all legislative expenses and expenditures of the House of Representatives; and

BE IT FURTHER RESOLVED, That members and employees of the Legislature be reimbursed for expenses incurred in attending authorized conferences and meetings at the rate provided by law and established by the Executive Rules Committee, plus mileage to and from the conferences and meetings at the rate provided by law and established by the Executive Rules Committee, which reimbursement shall be paid on vouchers from any appropriation made to the House of Representatives for legislative expenses; and

BE IT FURTHER RESOLVED, That, during the interim, the use of the House of Representatives Chamber, any of its committee rooms, or any of the furniture or furnishings in them is permitted upon such terms and conditions as the Chief Clerk of the House of Representatives shall deem appropriate; and

BE IT FURTHER RESOLVED, That the Chief Clerk of the House of Representatives may express the sympathy of the House of Representatives by sending flowers and correspondence when the necessity arises; and

BE IT FURTHER RESOLVED, That this Resolution applies throughout the interim between sessions of the Sixty-first Legislature, as well as any committee assembly.

The Speaker (Representative Morris presiding) stated the question before the House to be adoption of House Resolution No. 4706.

HOUSE RESOLUTION NO. 4706 was adopted.

**HOUSE CONCURRENT RESOLUTION NO. 4408 By Representatives Kessler and Kretz**

BE IT RESOLVED, By the House of Representatives of the State of Washington, the Senate concurring, That immediately before adjournment SINE DIE of this 2010 Regular session of the Sixty-first Legislature:

(1) The Senate shall transmit to the House of Representatives all House bills, House joint resolutions, House concurrent resolutions, and House joint memorials in its possession that have not been passed by the Senate, and upon receipt by the House of Representatives of such measures they shall be assigned to the House Rules Committee for third reading; and

(2) The House of Representatives shall transmit to the Senate all Senate bills, Senate joint resolutions, Senate concurrent resolutions, and Senate joint memorials in its possession that have not been passed by the House of Representatives, and upon receipt by the Senate of such measures they shall be assigned to the Senate Rules Committee for third reading; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Chief Clerk of the House of Representatives shall retain in their possession and in the status that exists upon the adjournment SINE DIE of the 2010 Regular session of the Sixty-first Legislature, all legislative measures including all bills, joint resolutions, concurrent resolutions, and joint memorials that may at that time be in their respective houses and all records, journals, dockets, and other documents pertaining thereto; and

BE IT FURTHER RESOLVED, That all measures introduced at any special session of the Sixty-first Legislature shall be numbered as a continuation of the numbers assigned to measures of the 2010 Regular session of the Sixty-first Legislature.

The Speaker (Representative Morris presiding) stated the question before the House to be adoption of House Concurrent Resolution No. 4408.

HOUSE CONCURRENT RESOLUTION NO. 4408 was adopted.

**MESSAGE FROM THE SENATE**

March 11, 2010

Mr. Speaker:

The Senate has adopted HOUSE CONCURRENT RESOLUTION 4408 and the same is herewith transmitted.

Thomas Hoemann, Secretary

The Speaker assumed the chair.

**SIGNED BY THE SPEAKER**

The Speaker signed HOUSE CONCURRENT RESOLUTION NO. 4408

The Speaker called upon Representative Morris to preside.

**SENATE CONCURRENT RESOLUTION NO. 8412** By

Senators Brown and Hewitt

BE IT RESOLVED, By the Senate of the State of Washington, the House of Representatives concurring, That the 2010 Regular Session of the Sixty-first Legislature adjourn SINE DIE.

The Speaker (Representative Morris presiding) stated the question before the House to be adoption of Senate Concurrent Resolution No. 8412.

SENATE CONCURRENT RESOLUTION NO. 8412 was adopted.

**MESSAGES FROM THE SENATE**

March 11, 2010

Mr. Speaker:

The President has signed:

SECOND SUBSTITUTE HOUSE BILL 2731  
SUBSTITUTE HOUSE BILL 2776  
HOUSE CONCURRENT RESOLUTION 4408

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The President has signed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6504  
ENGROSSED SUBSTITUTE SENATE BILL 6658  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6696  
SENATE BILL 6855  
SENATE CONCURRENT RESOLUTION 8412

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

The Senate concurred in the House amendment to ENGROSSED SECOND SUBSTITUTE SENATE BILL 6504 and passed the bill as amended by the House and the same is herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

HOUSE BILL 2904  
SECOND ENGROSSED SUBSTITUTE HOUSE BILL 2912  
HOUSE BILL 2918  
SUBSTITUTE HOUSE BILL 2930  
SUBSTITUTE HOUSE BILL 2933  
HOUSE BILL 2937  
SUBSTITUTE HOUSE BILL 2941  
HOUSE BILL 2942  
HOUSE BILL 2947  
ENGROSSED SUBSTITUTE HOUSE BILL 2954  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2956  
ENGROSSED HOUSE BILL 2969  
HOUSE BILL 2984

HOUSE BILL 2987  
HOUSE BILL 2989  
SUBSTITUTE HOUSE BILL 2997  
SUBSTITUTE HOUSE BILL 3001  
SUBSTITUTE HOUSE BILL 3003  
ENGROSSED HOUSE BILL 3023  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3024  
SUBSTITUTE HOUSE BILL 3039  
ENGROSSED SUBSTITUTE HOUSE BILL 3048  
HOUSE BILL 3056  
SUBSTITUTE HOUSE BILL 3060  
ENGROSSED SUBSTITUTE HOUSE BILL 3067  
HOUSE BILL 3068  
ENGROSSED SUBSTITUTE HOUSE BILL 3072  
HOUSE BILL 3095  
ENGROSSED SUBSTITUTE HOUSE BILL 3132  
ENGROSSED HOUSE BILL 3168  
ENGROSSED SUBSTITUTE HOUSE BILL 3175  
ENGROSSED SUBSTITUTE HOUSE BILL 3182  
ENGROSSED SUBSTITUTE HOUSE BILL 3186  
SUBSTITUTE HOUSE BILL 3201  
HOUSE JOINT MEMORIAL 4024  
HOUSE JOINT MEMORIAL 4025  
HOUSE JOINT MEMORIAL 4027

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

ENGROSSED SUBSTITUTE HOUSE BILL 2504  
HOUSE BILL 2511  
SUBSTITUTE HOUSE BILL 2512  
SUBSTITUTE HOUSE BILL 2514  
SUBSTITUTE HOUSE BILL 2516  
SUBSTITUTE HOUSE BILL 2517  
SUBSTITUTE HOUSE BILL 2524  
HOUSE BILL 2528  
SUBSTITUTE HOUSE BILL 2556  
ENGROSSED HOUSE BILL 2561  
ENGROSSED SUBSTITUTE HOUSE BILL 2565  
SUBSTITUTE HOUSE BILL 2566  
HOUSE BILL 2567  
ENGROSSED SUBSTITUTE HOUSE BILL 2571  
SUBSTITUTE HOUSE BILL 2580  
SUBSTITUTE HOUSE BILL 2589  
HOUSE BILL 2595  
HOUSE BILL 2605  
HOUSE BILL 2611  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2617  
SECOND SUBSTITUTE HOUSE BILL 2623  
SUBSTITUTE HOUSE BILL 2624  
SUBSTITUTE HOUSE BILL 2627  
HOUSE BILL 2629  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2630  
SUBSTITUTE HOUSE BILL 2636  
HOUSE BILL 2638  
HOUSE BILL 2642  
SECOND SUBSTITUTE HOUSE BILL 2670  
HOUSE BILL 2676  
HOUSE BILL 2677  
SUBSTITUTE HOUSE BILL 2683  
THIRD SUBSTITUTE HOUSE BILL 2687  
SUBSTITUTE HOUSE BILL 2688  
HOUSE BILL 2694  
HOUSE BILL 2701  
SUBSTITUTE HOUSE BILL 2706  
ENGROSSED SUBSTITUTE HOUSE BILL 2716  
HOUSE BILL 2720  
SUBSTITUTE HOUSE BILL 2721

SUBSTITUTE HOUSE BILL 2722  
 SUBSTITUTE HOUSE BILL 2739  
     HOUSE BILL 2750  
     HOUSE BILL 2751  
 ENGROSSED SUBSTITUTE HOUSE BILL 2753  
 ENGROSSED SUBSTITUTE HOUSE BILL 2756  
     SUBSTITUTE HOUSE BILL 2768  
     SECOND SUBSTITUTE HOUSE BILL 2782  
 ENGROSSED SUBSTITUTE HOUSE BILL 2790  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2793  
     SUBSTITUTE HOUSE BILL 2804  
     HOUSE BILL 2817  
     SUBSTITUTE HOUSE BILL 2818  
     HOUSE BILL 2848  
     SUBSTITUTE HOUSE BILL 2852  
 SECOND SUBSTITUTE HOUSE BILL 2854  
     SUBSTITUTE HOUSE BILL 2863  
     SUBSTITUTE HOUSE BILL 2865  
 ENGROSSED SUBSTITUTE HOUSE BILL 2875  
     SECOND SUBSTITUTE HOUSE BILL 2882  
     SUBSTITUTE HOUSE BILL 2884  
 ENGROSSED SUBSTITUTE HOUSE BILL 2886  
     HOUSE BILL 2888  
     HOUSE BILL 2898

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2010

Mr. Speaker:

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

    ENGROSSED HOUSE BILL 1139  
     SECOND SUBSTITUTE HOUSE BILL 1162  
     SECOND SUBSTITUTE HOUSE BILL 1180  
     SUBSTITUTE HOUSE BILL 1203  
     SUBSTITUTE HOUSE BILL 1329  
     SECOND SUBSTITUTE HOUSE BILL 1357  
     SECOND ENGROSSED HOUSE BILL 1547  
     SECOND SUBSTITUTE HOUSE BILL 1572  
     HOUSE BILL 1690  
     HOUSE BILL 1697  
     HOUSE BILL 1757  
 ENGROSSED SUBSTITUTE HOUSE BILL 1775  
     HOUSE BILL 1785  
     HOUSE BILL 1830  
     SUBSTITUTE HOUSE BILL 1831  
     SUBSTITUTE HOUSE BILL 1838  
 ENGROSSED SUBSTITUTE HOUSE BILL 1885  
     SUBSTITUTE HOUSE BILL 1900  
     SUBSTITUTE HOUSE BILL 1949  
     SECOND SUBSTITUTE HOUSE BILL 1985  
     SUBSTITUTE HOUSE BILL 2138  
     SUBSTITUTE HOUSE BILL 2224  
     ENGROSSED HOUSE BILL 2360  
     SUBSTITUTE HOUSE BILL 2397  
     HOUSE BILL 2398  
     SUBSTITUTE HOUSE BILL 2404  
     SUBSTITUTE HOUSE BILL 2408  
     SUBSTITUTE HOUSE BILL 2409  
 ENGROSSED SUBSTITUTE HOUSE BILL 2414  
     SUBSTITUTE HOUSE BILL 2416  
 ENGROSSED SUBSTITUTE HOUSE BILL 2427  
     HOUSE BILL 2435  
     HOUSE BILL 2437  
     SUBSTITUTE HOUSE BILL 2439  
     ENGROSSED HOUSE BILL 2444  
     HOUSE BILL 2456  
     SUBSTITUTE HOUSE BILL 2457  
     HOUSE BILL 2461  
     HOUSE BILL 2462  
     HOUSE BILL 2470

SUBSTITUTE HOUSE BILL 2471  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2480  
     HOUSE BILL 2483  
     SUBSTITUTE HOUSE BILL 2486  
     SUBSTITUTE HOUSE BILL 2488  
     HOUSE BILL 2492  
     HOUSE BILL 2495  
     SUBSTITUTE HOUSE BILL 2497  
 ENGROSSED SUBSTITUTE HOUSE BILL 2499

and the same are herewith transmitted.

Thomas Hoemann, Secretary

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following Senate bills were returned to the Senate:

    SUBSTITUTE SENATE BILL 5237,  
     SUBSTITUTE SENATE BILL 5376,  
     SUBSTITUTE SENATE BILL 5383,  
     SENATE BILL 5411,  
 ENGROSSED SUBSTITUTE SENATE BILL 5424,  
     ENGROSSED SENATE BILL 5523,  
     SUBSTITUTE SENATE BILL 5548,  
 ENGROSSED SUBSTITUTE SENATE BILL 5555,  
     SENATE BILL 5621,  
     SUBSTITUTE SENATE BILL 5668,  
     SUBSTITUTE SENATE BILL 5780,  
 ENGROSSED SUBSTITUTE SENATE BILL 5899,  
     SENATE BILL 5908,  
 ENGROSSED SUBSTITUTE SENATE BILL 6051,  
     SENATE BILL 6103,  
     SENATE BILL 6196,  
     SUBSTITUTE SENATE BILL 6205,  
     SUBSTITUTE SENATE BILL 6217,  
     SENATE BILL 6220,  
     SUBSTITUTE SENATE BILL 6224,  
     SUBSTITUTE SENATE BILL 6231,  
     ENGROSSED SENATE BILL 6240,  
 ENGROSSED SUBSTITUTE SENATE BILL 6244,  
     ENGROSSED SENATE BILL 6263,  
     SENATE BILL 6265,  
     SENATE BILL 6269,  
     SENATE BILL 6277,  
 ENGROSSED SUBSTITUTE SENATE BILL 6289,  
     SUBSTITUTE SENATE BILL 6309,  
     SECOND SUBSTITUTE SENATE BILL 6316,  
     SUBSTITUTE SENATE BILL 6338,  
     SUBSTITUTE SENATE BILL 6360,  
 ENGROSSED SUBSTITUTE SENATE BILL 6364,  
     SUBSTITUTE SENATE BILL 6374,  
     SUBSTITUTE SENATE BILL 6380,  
     SUBSTITUTE SENATE BILL 6393,  
     SENATE BILL 5409,  
 ENGROSSED SUBSTITUTE SENATE BILL 6402,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL 6409,  
     SUBSTITUTE SENATE BILL 6416,  
 ENGROSSED SUBSTITUTE SENATE BILL 6424,  
 ENGROSSED SUBSTITUTE SENATE BILL 6426,  
     ENGROSSED SENATE BILL 6430,  
     SUBSTITUTE SENATE BILL 6433,  
 ENGROSSED SUBSTITUTE SENATE BILL 6449,  
     ENGROSSED SENATE BILL 6462,  
 ENGROSSED SUBSTITUTE SENATE BILL 6503,  
     SECOND SUBSTITUTE SENATE BILL 6515,  
     SUBSTITUTE SENATE BILL 6521,  
 ENGROSSED SUBSTITUTE SENATE BILL 6533,

SUBSTITUTE SENATE BILL 6550,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL  
 6562,  
 SUBSTITUTE SENATE BILL 6570,  
 SUBSTITUTE SENATE BILL 6572,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL  
 6579,  
 SUBSTITUTE SENATE BILL 6580,  
 ENGROSSED SUBSTITUTE SENATE BILL 6603,  
 ENGROSSED SUBSTITUTE SENATE BILL 6621,  
 SUBSTITUTE SENATE BILL 6629,  
 ENGROSSED SENATE BILL 6643,  
 SUBSTITUTE SENATE BILL 6644,  
 ENGROSSED SUBSTITUTE SENATE BILL 6656,  
 SUBSTITUTE SENATE BILL 6662,  
 SECOND SUBSTITUTE SENATE BILL 6675,  
 SECOND SUBSTITUTE SENATE BILL 6678,  
 SUBSTITUTE SENATE BILL 6686,  
 SUBSTITUTE SENATE BILL 6698,  
 SUBSTITUTE SENATE BILL 6706,  
 SUBSTITUTE SENATE BILL 6712,  
 SENATE BILL 6720,  
 SUBSTITUTE SENATE BILL 6721,  
 SUBSTITUTE SENATE BILL 6727,  
 ENGROSSED SUBSTITUTE SENATE BILL 6733,  
 ENGROSSED SUBSTITUTE SENATE BILL 6737,  
 SUBSTITUTE SENATE BILL 6747,  
 ENGROSSED SENATE BILL 6754,  
 SECOND SUBSTITUTE SENATE BILL 6760,  
 ENGROSSED SENATE BILL 6762,  
 ENGROSSED SUBSTITUTE SENATE BILL 6778,  
 SUBSTITUTE SENATE BILL 6788,  
 SECOND SUBSTITUTE SENATE BILL 6790,  
 SENATE BILL 6815,  
 SECOND ENGROSSED SENATE BILL 6843,  
 SUBSTITUTE SENATE BILL 6844,  
 ENGROSSED SENATE BILL 6870,  
 SUBSTITUTE SENATE BILL 6874,  
 ENGROSSED SUBSTITUTE SENATE JOINT  
 RESOLUTION 8218,  
 SENATE JOINT RESOLUTION 8225.

SUBSTITUTE SENATE BILL NO. 6293  
 SUBSTITUTE SENATE BILL NO. 6339  
 SUBSTITUTE SENATE BILL NO. 6355  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6604  
 SUBSTITUTE SENATE BILL NO. 6759  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6774  
 ENGROSSED SENATE BILL NO. 6610  
 SENATE BILL NO. 6833  
 SENATE CONCURRENT RESOLUTION NO. 8412

The Speaker called upon Representative Morris to preside.

### MOTIONS

On motion of Representative Kessler, the reading of the Journal of the 60th Day of the 2010 Regular Session of the 61<sup>st</sup> Legislature was dispensed with and ordered to stand approved.

On motion of Representative Kessler, the 2010 Regular Session of the 61<sup>st</sup> Legislature was adjourned SINE DIE.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

### COMMITTEE APPOINTMENTS

The Speaker (Representative Morris presiding) announced the following committee appointments;

Representative Armstrong was appointed as ranking minority member of the Committee on Transportation, replacing Representative Roach. Representative Roach was appointed as assistant ranking minority member of the Committee on Transportation.

The Speaker assumed the chair.

### SIGNED BY THE SPEAKER

The Speaker signed the following:

SUBSTITUTE SENATE BILL NO. 5798  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5902  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.  
 6267  
 SUBSTITUTE SENATE BILL NO. 6280

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1329-S	
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1357-S2	
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1572-S2	
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2516-S	
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2517-S	
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2524-S	

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2547-S	
Speaker Signed .....	40
President Signed .....	54
2556-S	
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2565-S	
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2566-S	
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2580-S	
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2589-S	
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2636-S	
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Speaker Signed .....	63
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President Signed .....	63
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2694	
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2745-S	
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2753-S	
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2756-S	
Messages .....	66
2758-S	
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President Signed .....	54
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Speaker Signed .....	63
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President Signed .....	65
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2818-S	
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2852-S	
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2863-S	
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Speaker Signed .....	63
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2893-S	
Messages .....	25
President Signed .....	54
2898	
Messages .....	66
2904	
Messages .....	65
2912-S	
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2918	
Messages .....	65
2925-S	
Speaker Signed .....	40
President Signed .....	54
2930-S	
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2933-S	
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2935-S	
President Signed .....	54
2937	
Messages .....	65
2941-S	
Messages .....	65
2942	
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2954-S	
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3001-S	
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3003-S	
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3030	
Speaker Signed .....	40
President Signed .....	54
3039-S	
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3046-S	
Speaker Signed .....	40
President Signed .....	54
3048-S	
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